United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 84th CONGRESS, FIRST SESSION

SENATE

THURSDAY, MAY 26, 1955

(Legislative day of Monday, May 2, 1955)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

Almighty God, from whom all thoughts of truth and peace proceed: We are grateful for this reverential moment of quiet as we bow in Thy presence before the pressure of demanding hours lays its hand upon us. If we have been holding the exploding present so close to our eyes that we have lost the far perspective of Thy purpose, which cannot at last be thwarted, grant to us, we pray Thee, true horizons. Remind us of the better aspects of the civilization out of which we have come, which even now with new vitality is beating back the powers of slavish barbarism. Drawing refreshment from vineyards we did not plant, drinking at cisterns we did not dig, knowing the very freedoms for which we contend have been bought with a price, may we be eager in the supreme test of these days of destiny to make our own lives part payment on an unpayable debt. So may our imperfect service express something of Thee, before life's little day ebbs out and the night comes down, and our work is done. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The legislative clerk read the following letter:

UNITED STATES SENATE,
PRESIDENT PRO TEMPORE,
Washington, D. C., May 26, 1955.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. FREDERICK G. PAYNE, a Senator from the State of Maine, to perform the duties of the Chair during my absence.

WALTER F. GEORGE,
President pro tempore.

Mr. PAYNE thereupon took the chair as Acting President pro tempore.

THE JOURNAL

On request of Mr. JOHNSON of Texas, and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, May 25, 1955, was dispensed with.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries, and he announced that on May 25, 1955, the President had approved and signed the following acts:

S. 163. An act for the relief of Philopimin Michalacopoulos (Mihalakopoulos);

S. 271. An act for the relief of June Rose McHenry; and

S. 1413. An act to amend the act establishing a Commission of Fine Arts.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Maurer, its reading clerk, announced that the House had passed a bill (H. R. 2851) to make agricultural commodities owned by the Commodity Credit Corporation available to persons in need in areas of acute distress, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H. R. 2851) to make agricultural commodities owned by the Commodity Credit Corporation available to persons in need in areas of acute distress, was read twice by its title and referred to the Committee on Agriculture and Forestry.

CONVENTIONS AND RECOMMENDATIONS ADOPTED BY INTERNATIONAL LABOR CONFERENCE AT GENEVA—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 172)

The ACTING PRESIDENT pro tempore laid before the Senate a message from the President of the United States, which, with the accompanying papers, was referred to the Committee on Labor and Public Welfare.

(For President's message, see today's proceedings of the House of Representatives.)

COMMITTEE MEETINGS DURING SENATE SESSION

On request of Mr. JOHNSON of Texas, and by unanimous consent, the Committee on Labor and Public Welfare was authorized to meet during the session of the Senate today.

On request of Mr. JOHNSON of Texas, and by unanimous consent, the Subcommittee on Judicial Improvements of the Committee on the Judiciary was authorized to meet during the session of the Senate today.

EXECUTIVE SESSION

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to consider executive business.

EXECUTIVE REPORTS OF COMMITTEES

The following favorable reports of nominations were submitted:

By Mr. STENNIS, from the Committee on Armed Services:

Stephen W. Reszetar, midshipman (Naval Academy), to be ensign in the Navy, in lieu of ensign in the Civil Engineer Corps in the Navy as previously nominated and confirmed; and

H. Lee Boatwright III and Trentwell M. White, Jr. (Naval Reserve Officers' Training Corps) to be ensigns in the Navy as previously nominated and confirmed.

By Mr. NEELY, from the Committee on the District of Columbia:

Robert E. McLaughlin, of the District of Columbia, to be a Commissioner of the District of Columbia, vice Renah F. Camalier;

George E. C. Hayes, of the District of Columbia, to be a member of the Public Utilities Commission of the District of Columbia, vice Robert E. McLaughlin, resigning; and

George E. C. Hayes, of the District of Columbia, to be a member of the Public Utilities Commission of the District of Columbia, for term of 3 years, expiring June 30, 1958.

The ACTING PRESIDENT pro tempore. If there be no further reports of committees, the nominations on the Executive Calendar will be stated.

POSTMASTERS

The Chief Clerk proceeded to read sundry nominations of postmasters.

Mr. JOHNSON of Texas. I ask unanimous consent that the nominations of postmasters be confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the postmaster nominations are confirmed en bloc.

Mr. JOHNSON of Texas. I ask that the President be notified forthwith of the nominations today confirmed.

The ACTING PRESIDENT pro tempore. Without objection, the President will be notified forthwith.

LEGISLATIVE SESSION

Mr. JOHNSON of Texas. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to; and the Senate resumed the consideration of legislative business.

PROGRAM FOR TODAY—ORDER FOR TRANSACTION OF ROUTINE BUSINESS

Mr. JOHNSON of Texas. Mr. President, a bill has been reported from the Committee on Finance which the distinguished chairman of that committee is anxious to have considered as soon as possible, as are all the members of the committee. There are also a few bills on the calendar which, so far as we know, are noncontroversial. They have been cleared by both the able minority leader and Senators on this side of the aisle.

It is hoped that the Senate may now have the usual morning hour, with statements limited to 2 minutes, and that the Senate may then proceed immediately to consider those bills which, as I have stated, are noncontroversial. Then the Senate will, if necessary, remain in session for the remainder of the afternoon, and as late into the evening as may be necessary, to accommodate the convenience of Senators.

I ask for the usual cooperation of Senators, by urging that they withhold any statements which cannot be made in the morning hour until the scheduled program can be considered, because it is a brief one, and I believe can be disposed of with dispatch. If the business of the Senate can be organized in that manner, I am sure the convenience of all will be served, and every Senator will still be protecting his rights.

Mr. President, I now ask unanimous consent that there may be the customary morning hour for the presentation of petitions and memorials, the introduction of bills, and the transaction of other routine business, with statements limited to 2 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

JOINT RESOLUTION OF VERMONT LEGISLATURE

Mr. AIKEN. Mr. President, I present a joint resolution of the Vermont Legislature, requesting Congress to extend the provisions of old-age and survivors insurance and the old-age assistance program. The joint resolution asks that beneficiaries be permitted to earn up to $2,400 a year without curtailment of payments in lieu of the present limitation of $1,200.

The ACTING PRESIDENT pro tempore. The joint resolution will be received and appropriately referred; and, under the rule, will be printed in the RECORD.

The joint resolution was referred to the Committee on Finance, as follows:

Joint resolution requesting Congress to extend the benefits of the old-age and survivors insurance and old-age assistance program

Whereas a person under 72 years of age who is otherwise entitled to receive monthly benefits under the Federal old-age and survivors insurance program is not entitled to receive the maximum benefits otherwise allowable if he earns more than $1,200 in a year; and

Whereas such provision tends to encourage idleness of persons, to lower the level of subsistence, and to discriminate against persons within that group who do not have income from sources other than earnings; and

Whereas many of the persons 65 years of age and older whose property and income are so limited as to entitle them to benefits under the old-age assistance program do not receive sufficient payments thereunder to subsist at a healthful level, and some are destitute: Now, therefore, be it

Resolved by the senate and house of representatives, That the Congress of the United States be respectfully urged to extend the old-age and survivors insurance benefits to allow beneficiaries thereunder to earn up to $2,400 a year without curtailment of payments, and to extend the benefits of the old-age assistance program to allow recipients to earn reasonable amounts regularly to supplement the payments received and to enable maintaining themselves at a healthful level; and that the secretary of state be directed to transmit duly attested copies of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, the chairman of the Senate Committee on Labor and Public Welfare, the chairman of the House Committee on Education and Labor, the chairmen of the Senate and House Committees on Appropriations, and to our congressional delegation.

Approved May 19, 1955.

INCREASED MINIMUM WAGE—LETTER, PETITION, AND RESOLUTION

Mr. LEHMAN. Mr. President, this week I have received three communications in regard to a Federal minimum wage which I consider of some significance. Each has come to me independently and represents the thinking of three separate segments of the American economy—all in favor of an increase in the minimum wage to $1.25 an hour.

A group of businessmen, the Silk and Rayon Printers & Dyers Association of America, Inc., have written to me in support of such an increase. Approximately 500 citizens in the mid-Hudson Valley of my State have signed a petition asking for such an increase. Finally, the Oil Workers International Union and United Chemical Workers, CIO, passed a resolution at their joint national convention endorsing the $1.25 an hour minimum wage. As Members of the Senate know, this increase is provided for in the bill (S. 662) to amend the Fair Labor Standards Act of 1938 to establish a $1.25 minimum hourly wage, and for other purposes.

Because I feel that these communications, representing business, labor, and the public, demonstrate the widespread support for the $1.25 an hour minimum wage, I ask unanimous consent that the text of the letter from the Silk and Rayon Printers & Dyers Association, the petition from the citizens of the mid-Hudson Valley and the resolution of the oil and chemical unions convention be printed in the RECORD at this point.

There being no objection, the letter, petition, and resolution were ordered to be printed in the RECORD, as follows:

SILK & RAYON PRINTERS & DYERS ASSOCIATION OF AMERICA, INC.,
New York, N. Y., May 23, 1955.

Senator HERBERT H. LEHMAN,
United States Senate,
Washington, D. C.

DEAR SENATOR: The board of directors of this association representing over 100 dyeing, finishing, and printing plants, a number of which are in the State of New York, have gone on record favoring the increase in minimum wages from the present 75 cents to $1.25 per hour.

Our industry average is in excess of $1.60 per hour, and an increase in the present minimum wages would enable our industry to better survive in competition with low wage paying segments in other areas.

I believe that the proposed 90 cents minimum is inadequate in the face of present conditions, and we feel that a minimum of $1.25 per hour is much more realistic and, although lower than we are paying, would be at least a step in the right direction.

If there is any further information or data you require from us, please do not hesitate to call upon me.

Very truly yours,

DEAN M. LEWIS,
President.

A PETITION TO THE CONGRESS OF THE UNITED STATES FOR A FAIR AND REASONABLE FEDERAL MINIMUM WAGE

The minimum wage of 75 cents an hour currently established by the Fair Labor Standards Act was out of date even when it was enacted in 1949. Since then there has been a sharp increase in the cost of living and a steady rise in the productivity of American workers. There is no realistic relationship between a minimum of 75 cents an hour and the purpose of the Fair Labor Standards Act, which is to guarantee an adequate minimum standard of living to every worker, and to wipe out sweatshop wages as a factor in competition under the private enterprise system.

In order to achieve these purposes the Federal minimum must be increased, not just by a few cents, but to $1.25 an hour. Such an increase would have the further effect of strengthening our national economy by providing the purchasing power necessary to maintain full employment.

For these reasons we, the undersigned urge the Congress of the United States to act at once to raise the Federal minimum wage to $1.25 an hour.

(Signed by approximately 500 citizens of the Mid-Hudson Valley, New York.)

PROPOSED RESOLUTION ON MINIMUM WAGE

The Congress has failed to protect the minimum wage established under the Fair Labor Standards Act of 1938. The effects of inflation and administrative and court decisions restricting coverage under the act have continually reduced the minimum wage and the number of workers protected under the Federal law. The present minimum of 75 cents was set prior to the war in Korea. It was inadequate at that time; it is doubly so today. The cost of living has risen approximately 15 percent since it was passed, yet no provision has been made to maintain the wage level as well as to bring the benefits of technological advance to those workers who rely for their minimum standard on this Federal protection.

Whereas Members of the Congress have recognized this problem and introduced Senate bill No. 662 to amend the Fair Labor Standards Act by providing a minimum wage of "not less than $1.25 an hour" and at the same time made provision for extending coverage to additional thousands of workers who need the protection of Federal law: Now, therefore, be it

Resolved, That Oil Chemical and Atomic Workers International Union, CIO, go on record as commending the Members of Congress who have taken the lead in efforts to secure an increased minimum wage; and be it further

Resolved, That we endorse S. 662 including its provisions which—

1. Increase the minimum wage to $1.25 an hour.

2. Extend coverage to industry "affecting commerce."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PAYNE, from the Committee on Interstate and Foreign Commerce, without amendment:

S. 1419. A bill to lower the age requirements with respect to optional retirement of persons serving in the Coast Guard who served in the former Lighthouse Service (Rept. No. 381);

H. R. 4646. A bill to amend section 4421 of the Revised Statutes, in order to remove the requirement as to verifying under oath certain certificates of inspection, and for other purposes (Rept. No. 380); and

H. R. 5224. A bill to amend title 14, United States Code, entitled "Coast Guard," to authorize certain early discharges of enlisted personnel, and preserve their rights, privileges, and benefits (Rept. No. 379).

By Mr. BIBLE, from the Committee on the District of Columbia:

S. 1093. A bill to fix and regulate the salaries of teachers, school officers, and other employees of the Board of Education of the District of Columbia, and for other purposes; with an amendment (Rept. No. 377).

STATE, JUSTICE, JUDICIARY, AND USIA APPROPRIATIONS, 1956—REPORT OF A COMMITTEE

Mr. KILGORE. Mr. President, from the Committee on Appropriations, I report favorably, with amendments, the bill (H. R. 5502) making appropriations for the Departments of State and Justice and the Judiciary and related agencies for the fiscal year ending June 30, 1956, and for other purposes, and I submit a report (No. 378) thereon.

I ask unanimous consent that later today I may file motions to suspend the rules, which will have to be considered in connection with certain amendments proposing changes in language.

Mr. JOHNSON of Texas. Mr. President, will the Senator yield?

Mr. KILGORE. I yield.

Mr. JOHNSON of Texas. Is the bill which the Senator is reporting an appropriation bill?

Mr. KILGORE. It is the appropriation bill for State, Justice, Judiciary, and USIA appropriations.

Mr. JOHNSON of Texas. Was the bill ordered reported by the committee this morning?

Mr. KILGORE. It was.

Mr. JOHNSON of Texas. Was the report a unanimous report?

Mr. KILGORE. It was a unanimous report.

Mr. JOHNSON of Texas. Mr. President, I wish to give notice that following the morning hour next Tuesday, I shall move to take up the appropriation bill which has now been reported. I make this announcement so that all Senators may be placed on notice. I have previously discussed this action with the distinguished minority leader.

The ACTING PRESIDENT pro tempore. The report will be received, and the bill will be placed on the calendar, and the unanimous-consent request of the Senator from West Virginia is granted.

INCREASED COMPENSATION OF OFFICERS AND EMPLOYEES IN FIELD SERVICE OF POST OFFICE DEPARTMENT—REPORT OF A COMMITTEE

Mr. JOHNSTON of South Carolina. Mr. President, from the Committee on Post Office and Civil Service, I report favorably, with amendments, the bill (S. 2061) to increase the rates of basic compensation of officers and employees in the field service of the Post Office Department, and I submit a report (No. 382) thereon. The bill was reported by the committee unanimously.

The ACTING PRESIDENT pro tempore. The report will be received, and the bill will be placed on the calendar.

STOCK MARKET STUDY—REPORT OF COMMITTEE ON BANKING AND CURRENCY (S. REPT. NO. 376)

Mr. FULBRIGHT. Mr. President, from the Committee on Banking and Currency, I submit a report, with individual and minority views, on the committee's study of the stock market.

The ACTING PRESIDENT pro tempore. The report will be received and printed.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. EASTLAND:

S. 2080. A bill for the relief of Oakley F. Dodd; to the Committee on Post Office and Civil Service.

By Mr. HILL:

S. 2081. A bill to amend the Veterans' Readjustment Assistance Act of 1952 to provide that education and training allowances paid to veterans pursuing institutional on-farm training shall not be reduced for 12 months after they have begun their training; to the Committee on Labor and Public Welfare.

By Mr. WILLIAMS (for himself and Mr. FREAR):

S. 2082. A bill to authorize a preliminary examination and survey of the channel leading from Indian River Bay to Assawoman Canal known as White's Creek, Del.; and

S. 2083. A bill to authorize a preliminary examination and survey of the channel leading from Indian River Bay via Pepper's Creek to Dagsboro, Del.; to the Committee on Public Works.

By Mr. FLANDERS:

S. 2084. A bill for the relief of Hans Nielson; to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 2085. A bill relating to participation by representatives of the United States in the world plowing matches; to the Committee on Agriculture and Forestry.

(See the remarks of Mr. HUMPHREY when he introduced the above bill, which appear under a separate heading.)

By Mr. JACKSON:

S. 2086. A bill to provide for the promotion of certain persons who participated in the defense of the Philippines and who did not receive promotions after having been held as prisoners of war; to the Committee on Armed Services.

By Mr. O'MAHONEY (for himself and Mr. BARRETT):

S. 2087. A bill to amend the act of May 19, 1947 (ch. 80, 61 Stat. 102), as amended, so as to permit per capita payments to the individual members of the Shoshone Tribe and the Arapahoe Tribe of the Wind River Reservation in Wyoming, to be made quarterly; to the Committee on Interior and Insular Affairs.

By Mr. BENDER:

S. 2088. A bill for the relief of Ladislav Mencl; to the Committee on the Judiciary.

By Mr. LONG:

S. 2089. A bill for the relief of Sebastian Castro Carregal; to the Committee on the Judiciary.

PARTICIPATION IN WORLD PLOWING MATCHES

Mr. HUMPHREY. Mr. President, I introduce, for appropriate reference, a bill relating to participation by representatives of the United States in world plowing matches.

Mr. President, this year over 1 million plowmen are getting ready to compete in organized plowing contests, designed to stimulate interest in modern farming methods and sound conservation practices. Their ultimate goal is to be crowned the champion plowman of the world at the third annual world plowing matches, to be held at Uppsala, Sweden, on October 8 and 9.

Fourteen countries will be represented by contestants, including Belgium, Canada, Denmark, Finland, France, Germany, Great Britain, Holland, Northern Ireland, Norway, Pakistan, Sweden, and the United States, with observers also present from Australia, Austria, India, and South America.

Mr. President, anyone who has attended any of our own State or national plowing matches knows what an impressive exhibition they are. Perhaps the best remembered event of this nature in our own country was the famous Kasson, Minn., national plowing contest in 1952.

Recognizing the value of these matches as an educational vehicle, similar to trade fairs, conservation leaders have been successful in getting the United States designated as the site of the 1957 World's Conservation Exposition and Plowing Contest. That event will be held at Peebles, Ohio, in 1957, with preliminary arrangements already in progress.

The United States is proud of its example of modern farming methods offered to the rest of the world. Success of American farm production stands in marked contrast to failure of Russia's collective agriculture. It is important that we make the most of this great conservation exposition to be held in our country 2 years from now.

As a vital step in that direction my measure proposes cooperation of the Department of Agriculture in sending American representatives to the Sweden matches this year.

The proposed legislation calls for no additional appropriations. It merely authorizes and directs the Secretary of Agriculture to expend not more than $10,000 of funds already appropriated to encourage soil conservation for the purpose of sending America's winners to the Sweden matches, along with officers of the nonprofit group heading arrangements for the world matches in this country in 1957.

Furthermore, it directs the Secretary of Agriculture to transmit to the Congress for consideration next year his recommendations concerning the manner and extent to which our Government should participate in the sponsorship of the 1957 world plowing matches in this country.

Mr. President, I ask unanimous consent to have a copy of the bill printed in the body of the RECORD at this point, together with a statement from the Officers of the 1957 World's Conservation Exposition and Plowing Contests, Inc., explaining the background and purposes of the world's plowing matches, entitled "The Aims of the World Plowing Organization."

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill and statement will be printed in the RECORD.

The bill (S. 2085) relating to participation by representatives of the United States in the world plowing matches, introduced by Mr. HUMPHREY, was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

Be it enacted, etc., That in order to encourage participation by representatives of the United States in the Third Annual World Plowing Matches to be held in Uppsala, Sweden, on October 8 and 9, 1955, the Secretary of Agriculture is authorized and directed to pay, out of any moneys appropriated for the Soil Conservation Service, (1) the reasonable and necessary traveling and other expenses incurred by representatives of the United States in participating in such plowing matches, and (2) the reasonable and necessary traveling and other expenses incurred by representatives of the 1957 World's Conservation Exposition and Plowing Contest, Inc., in attending such matches. Funds expended under this section shall not exceed $10,000.

SEC. 2. The Secretary of Agriculture shall transmit to the Congress, at the earliest practicable date, his recommendations concerning the manner and extent to which the Department of Agriculture, and any other agencies of the Government, should participate in the sponsorship within the United States of the 1957 World Plowing Matches.

The statement presented by Mr. HUMPHREY is as follows:

THE AIMS OF THE WORLD PLOWING ORGANIZATION

The purpose that inspires the WPO is twofold and may be defined as the material and moral betterment of society as a whole. Unquestionably, the fundamental problem that faces the world today is that of growing enough food for all, and anything and everything that tends to the betterment of agriculture adds to the betterment of mankind. The plow, now as always, is the basic instrument of food production, and improved plowing methods mean more food. The WPO believes that by stimulating world interests in the most ancient of all human crafts and by raising the standard and dignity of the plowman, the world contests organized by it will, by their influence, increase the fertility and yield of the soil of every continent.

Every entrant for the world championship contest has won his place as a result of elimination contests in his own country—local, provincial, and national—in which hundreds of plowmen have taken part, and every single one of these contests has aroused considerable local interest in the plowman's craft. When the competitors for the championship enter the field their progress is followed with interest by many thousands of enthusiasts from all over the world.

As regards the moral betterment for which the WPO strives, this must necessarily be brought about by the friendly association in a common and basic endeavor of so many men and women from so many different countries. Better living and happiness for mankind are to be found in the discovery of the innumerable ties that unite us rather than in emphasizing the relatively few and, for the most part, artificial barriers that separate us. Men of good will of all nations cannot but find community of interest and understanding in the development and improvement of an art that is as old as history and as widespread as the human race itself.

EAST COAST SHIP & YACHT CORP.—REFERENCE OF BILL TO COURT OF CLAIMS

Mr. PURTELL submitted the following resolution (S. Res. 105) which was referred to the Committee on the Judiciary:

Resolved, That the bill (S. 158) entitled "A bill for the relief of the East Coast Ship & Yacht Corp., of Noank, Conn.," now pending in the Senate, together with all the accompanying papers, is hereby referred to the Court of Claims; and the court shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28 of the United States Code and report to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States and the amount, if any, legally or equitably due from the United States to the claimant.

ADDITIONAL FUNDS FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. ANDERSON (for Mr. MURRAY) submitted the following resolution (S. Res. 106); which was referred to the Committee on Interior and Insular Affairs:

Resolved, That the Committee on Interior and Insular Affairs is authorized to expend from the contingent fund of the Senate, during the 84th Congress, $10,000 in addition to the amount, and for the same purposes, specified in section 134 of the Legislative Reorganization Act of 1946.

NOTICES OF MOTIONS TO SUSPEND THE RULE — AMENDMENTS TO STATE, JUSTICE, JUDICIARY, AND USIA APPROPRIATION BILL

Mr. KILGORE submitted the following notice in writing:

In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H. R. 5502) making appropriations for the Departments of State and Justice, the Judiciary, and related agencies for the fiscal year ending June 30, 1956, and for other purposes, the following amendment, namely: On page 4, line 20, after the word "Affairs", insert: ": *Provided further,* That hereafter the position of Budget Officer of the Department shall be in GS-18 in the General Schedule established by the Classification Act of 1949 so long as the position is held by the present incumbent."

Mr. KILGORE also submitted an amendment, intended to be proposed by him, to House bill 5502, making appropriations for the Department of State and Justice and the Judiciary and related agencies for the fiscal year ending June 30, 1956, and for other purposes, which was ordered to lie on the table and to be printed.

(For text of amendment referred to, see the foregoing notice.)

Mr. KILGORE submitted the following notice in writing:

In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H. R. 5502) making appropriations for the Departments of State and Justice, the Judiciary, and related agencies for the fiscal year ending June 30, 1956, and for other purposes, the following amendment, namely: On page 18, after line 13, insert:

"SEC. 111. Appropriations under this title available for allowances granted under the authority in part A of title IX of the Foreign Service Act of 1946, as amended, shall be available for the payment of such allowances in advance."

Mr. KILGORE also submitted an amendment, intended to be proposed by him, to House bill 5502, making appropriations for the Departments of State and Justice and the Judiciary and related agencies for the fiscal year ending June 30, 1956, and for other purposes, which was ordered to lie on the table and to be printed.

(For text of amendment referred to, see the foregoing notice.)

Mr. KILGORE submitted the following notice in writing:

In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H. R. 5502) making appropriations for the Departments of State and Justice, the Judiciary, and related agencies for the fiscal year ending June 30, 1956, and for other purposes, the following amendment, namely: On page 18, after line 13, insert:

"SEC. 112. Allowances granted under section 901 (1) of the Foreign Service Act of 1946 (22 U. S. C. 1131), may include water, in addition to the utilities specified."

Mr. KILGORE also submitted an amendment, intended to be proposed by him, to House bill 5502, making appropriations for the Departments of State and Justice and the Judiciary and related agencies for the fiscal year ending June 30, 1956, and for other purposes, which was ordered to lie on the table and to be printed.

(For text of amendment referred to, see the foregoing notice.)

Mr. KILGORE submitted the following notice in writing:

In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H. R. 5502) making appropriations for the Departments of State and Justice, the Judiciary, and related agencies for the fiscal year ending June 30, 1956, and for other purposes, the following amendment, namely: On page 18, after line 13, insert:

"SEC. 113. The Secretary of State may, notwithstanding the provisions of any other law, prescribe regulations for the payment

on a commutated basis in lieu of any other method, of expenses authorized by law for travel of personnel of the Department and its Foreign Service, including travel of dependents and for transportation, or for transportation and storage of furniture and household and personal effects, and automobiles of such personnel."

Mr. KILGORE also submitted an amendment, intended to be proposed by him, to House bill 5502, making appropriations for the Departments of State and Justice and the Judiciary and related agencies for the fiscal year ending June 30, 1956, and for other purposes, which was ordered to lie on the table and to be printed.

(For text of amendment referred to, see the foregoing notice.)

Mr. KILGORE submitted the following notice in writing:

In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H. R. 5502), making appropriations for the Departments of State and Justice, the Judiciary, and related agencies for the fiscal year ending June 30, 1956, and for other purposes, the following amendment namely: On page 19, after line 14, insert: ": *Provided*, That hereafter the compensation of the Administrative Assistant Attorney General shall be $17,500 per annum so long as the position is held by the present incumbent."

Mr. KILGORE also submitted an amendment, intended to be proposed by him, to House bill 5502, making appropriations for the Departments of State and Justice and the Judiciary and related agencies for the fiscal year ending June 30, 1956, and for other purposes, which was ordered to lie on the table and to be printed.

(For text of amendment referred to, see the foregoing notice.)

Mr. KILGORE submitted the following notice in writing:

In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H. R. 5502), making appropriations for the Departments of State and Justice, the Judiciary, and related agencies for the fiscal year ending June 30, 1956, and for other purposes, the following amendment, namely: On page 26, line 8, after the year, insert: ": *Provided further*, That hereafter the compensation of the the Director of the Bureau shall be $17,500 per annum so long as the position is held by the present incumbent."

Mr. KILGORE also submitted an amendment, intended to be proposed by him, to House bill 5502, making appropriations for the Departments of State and Justice and the Judiciary and related agencies for the fiscal year ending June 30, 1956, and for other purposes, which was ordered to lie on the table and to be printed.

(For text of amendment referred to, see the foregoing notice.)

DEVELOPMENT OF HYDROELECTRIC POWER IN HELLS CANYON

Mr. NEUBERGER. Mr. President, on May 6, 1955, a Federal Power Commission examiner delivered his decision on the application of the Idaho Power Co. to build three small dams in the Hells Canyon stretch on the Snake River. The examiner approved the licensing of a company dam at the Brownlee site, but rejected the applications for the other two sites. The Brownlee Dam is located in the reservoir area of the proposed Federal high dam at Hells Canyon, and would, if finally approved by the Federal Power Commission, prevent the construction of the high dam, with its many great advantages and benefits.

Since it was made public, people in the Pacific Northwest have become more and more alarmed about what this decision means to future development of Columbia Basin water resources. They are aware of the examiner's finding that "the facts seem to point to the inescapable conclusion that with the marked and substantial advantage of the Government's credit, the high dam would be, dollar for dollar, the better investment and the more nearly ideal development of the Middle Snake."

The people of the Northwest do not regard the 221,000 kilowatts of firm power from the Idaho Power Co.'s Brownlee Dam as a substitute for the 1,200,000 kilowatts of potential firm power from high Hells Canyon Dam; nor do they believe that the high cost of Brownlee's 7.6 mill power—a fact established by the FPC examiner—is a substitute for Hells Canyon's 2.6 mill power. Neither is Brownlee's 1 million acre-feet a substitute for Hells Canyon's 3,880,000 acre-feet of flood-control storage.

When the Federal Power Commission fails to perform its functions in the public interest, the Congress has the duty and responsibility to step in and set things right. I am receiving more and more appeals from the people of the Northwest States, urging Congress to take such action.

On Tuesday, May 24, the Clearwater Valley Power Co., an REA co-op, held its 18th annual meeting, and expressed its views on Hells Canyon Dam. Similar support for the high dam project was contained in an editorial in the Idaho Farm Journal of May 20, 1955, the major weekly farm publication in southern Idaho. The editor of this newspaper aptly expressed the views held by a growing number of people in our region:

If Idaho Power Co. is allowed to ruin Snake River Gorge, the present generation will be hated and vilified by all the generations to come. And we deserve that hate if we do not conserve for the years ahead.

Mr. President, I ask unanimous consent to have printed at this point in the body of the RECORD a telegram from the Clearwater Power Co. and the text of the editorial from the Idaho Farm Journal.

There being no objection, the telegram and editorial were ordered to be printed in the RECORD, as follows:

LEWISTON, IDAHO, *May 25, 1955.*

Senator RICHARD NEUBERGER,
Senator from Oregon,
Senate Office Building,
Washington, D. C.:

Eighteenth annual meeting of Clearwater Power Co., REA co-op, held May 24th at Lewiston, Idaho. Resolution presented from floor supporting construction of the Federal high Hells Canyon Dam, by the Federal Government, carried unanimously with enthusiasm. No dissenting votes. Since this was representation from 7 Idaho and 2 Washington counties, we feel your support is the will of the little people.

HARRY BUTLER,
Manager, Clearwater Power Co.

[From the Idaho Farm Journal of May 20, 1955]

"Build the wrong dam, but build it quick." The Journal cannot see logic in the argument that, although Idaho Power Co.'s proposed dams are not the proper development of the Snake River Gorge, a dam should be built because the area needs more electric power now. Even Governor Smylie has joined the chorus to "put us on the road to building power capacity." He avers that "more kilowatts and less conversation" is the motto now. In other words, even if it is the wrong dam in the wrong place and will forever ruin the chance of proper development, let's get the kilowatts and to heck with the future.

Governor Smylie knows—and dozens of competent engineers know—that Idaho Power Co. has several other sites on which it could build power dams—and build 'em quick, if that's what the governor wants.

But the development of the entire Northwest, and Idaho particularly, calls for the full use of our resources. We would think a man foolish who went out and cut down the biggest and best tree on his place in order to get a fence post—and then threw the rest of the tree away.

The Journal has never said it wanted a high Hells Canyon Dam or no dam at all. We have never called for a Federal dam in Hells Canyon. Nor have we ever clamored for public power for the Northwest or for Idaho. What we have stood for, and will continue to fight for, is the proper, full, and most comprehensive development and conservation of our natural resources. Give us a better plan than the high Federal dam in Hells Canyon and we'll enlist on that side immediately.

But it is a shortsighted and unfortunate view that because Idaho Power Co. hasn't kept abreast of demands for electrical energy we should give it an entire river—a river that the company can't possibly develop for flood control, navigation, irrigation, and reclamation, wildlife and recreation.

If Idaho Power Co. is allowed to ruin Snake River Gorge, the present generation will be hated and vilified by all the generations to come. And we deserve that hate if we do not conserve for the years ahead.

ACHIEVEMENTS OF THE OREGON NATIONAL GUARD

Mr. NEUBERGER. Mr. President, the members of the National Guard stand as the minutemen of defense, ever ready to defend our country. These volunteer citizen soldiers have often meant the difference between defeat and victory.

The Oregon National Guard, under the able command of the Oregon adjutant general, Maj. Gen. Thomas E. Rilea, has played a worthy role in our national defense. The 41st Infantry Division, made up of guardsmen of Oregon and Washington, was the first major Army unit to enter the South Pacific after the attack on Pearl Harbor. Maj. Gen. Harold G. Maison, the division commander, is carrying on the tradition and spirit of this proud combat unit.

Mr. President, I am very pleased to learn that Hugh M. Milton II, Assistant Secretary of the Army, has awarded a

certificate of victory to the Headquarters and Headquarters Company, 1st Battalion, 162d Infantry Regiment, of the Oregon National Guard, under the command of Capt. Waldo Gilbert, for the achievement of their unit's rifle team in winning the National Guard State trophy match for 1954. Silverton, Oreg., can be proud of the achievements of its National Guard unit.

Mr. President, I ask unanimous consent to have printed at this point in the CONGRESSIONAL RECORD the letter from Secretary Milton to Capt. Waldo Gilbert, the commanding officer of the Headquarters and Headquarters Company, 1st Battalion, 162d Infantry.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MAY 23, 1955.

Capt. WALDO GILBERT,
CO, Hq & Hq Co., 1st Bn, 162d Inf,
Oregon National Guard,
Silverton, Oreg.

DEAR CAPTAIN GILBERT: Recently, I had the privilege of signing a Certificate of Victory attesting to your achievement and that of the members of your unit rifle team in winning the National Guard (State) Trophy Match for 1954.

This record was based on sustained effort in record firing with the service rifle during the entire calendar year of 1954, and to me was particularly impressive for this reason. It is a fine example of the continuing effort which the members of your National Guard unit are making throughout each year as your contribution to the defense of the United States.

In addition to the Certificate of Victory for your unit, I would like to personally commend you and the members of your team for the continuing outstanding devotion to duty thus displayed. To my mind, the man on the ground, armed with his rifle, will forever remain the bulwark of the defense of our country. I know that you must share this opinion with me, for your interest in rifle marksmanship and that of your team members could not be so sustained without it.

We in the Department of the Army welcome examples of service and patriotism such as that you and your unit members have shown. I know that your efforts will continue to be directed to the utilization of every possible opportunity to further the training of your unit in rifle marksmanship and to keep alive within your communities the sense of responsibility which we all must share.

Again, please accept my personal thanks and extend them to each member of your unit, for your joint efforts in the National Guard (State) Trophy Match.

Sincerely yours,

HUGH M. MILTON II,
Assistant Secretary of the Army.

CONTINUATION OF MERCHANT MARINE ACADEMY AT KINGS POINT, N. Y.

Mr. BUTLER. Mr. President, I ask unanimous consent that a statement which I have prepared in support of the continuation of the Merchant Marine Academy at Kings Point, N. Y., on a permanent basis, be printed in the body of the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BUTLER

The House of Representatives has given expected approval to H. R. 6043, which would provide for the establishment of the Merchant Marine Academy at Kings Point on a permanent basis. The same sane reasoning and judgment which prompted passage of this legislative proposal in the House would apply in equal measure here in the Senate.

When this Kings Point bill was before our Senate Water Transportation Subcommittee last year, favorable action was withheld at the request of the Secretary of Commerce, on the basis that a study of the whole situation was then in prospect, and would be completed by early 1955, in time for action during this session.

A study was made, limited, however, to the question as to whether there was a duplication of effort between the Kings Point Academy and the Coast Guard Academy, and whether the two could not be consolidated, with benefit to all concerned. The group that made the study advised against consolidation, and recommended continuation of the two academies as presently conducted.

Unfortunately, consideration of the proposal to establish the Kings Point Academy on a permanent basis was complicated this year, and the entire picture of merchant marine training confused, by administration action in excluding from the 1956 budget funds for the four State Merchant Marine Academies, which have been provided annually since 1911. While these funds have been restored, and increased, by the House, the threat to the State academies thus implied has been most disturbing.

The proponents of a permanent Kings Point Academy, which include all the shipping groups who are dependent upon a continuing cadre of trained ships' officers, are just as strongly in favor of continued operation of the State academies. So am I. The combined products of these fine academies are needed to assure our privately owned merchant marine an adequate supply of trained officers for service alike in peace and in emergency.

There is no question here of Kings Point versus the State academies. We need them both. I shall support continued appropriations to the State academies, just as much as I support the Kings Point measure. And I will vigorously oppose any moves now or in the foreseeable future to deny funds to the State academies.

With such an attitude generally prevalent in the Senate, as I believe it is, and with the funds for the State academies for 1956 now restored to the appropriations bill, I see no reason for delay or opposition to H. R. 6043. I hope for its early consideration and passage.

CORRESPONDENCE OF SENATOR MURRAY ON THE ALUMINUM SHORTAGE

Mr. SCOTT. Mr. President, at the request of the distinguished senior Senator from Montana [Mr. MURRAY], I ask unanimous consent to have printed in the RECORD the text of letters dealing with the aluminum shortage, sent by him to the Director of the Office of Defense Mobilization and to Representative SIDNEY R. YATES.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS,
May 24, 1955.

Hon. SIDNEY R. YATES,
House of Representatives,
Washington, D. C.

DEAR CONGRESSMAN YATES: I am herewith transmitting copies of my correspondence with Arthur Flemming, Director of the Office of Defense Mobilization, including my most recent letter, with reference to the current aluminum shortage. In view of your subcommittee's hearings on aluminum, I trust these letters will be of interest to you and that you may wish to insert them into the record of your proceedings.

May I point out that although permanent solution to recurring aluminum shortages lies in full use of Government aids available under the Defense Production Act of 1950 to bring new independent primary producers into the industry, I have suggested in my latest letter to Mr. Flemming that he request the Attorney General to broaden the Justice Department's antitrust action against Alcoa to include Reynolds and Kaiser. I also suggest that he request the Attorney General initiate action to divest Alcoa, Reynolds, and Kaiser of their fabricating facilities.

It may well be that your subcommittee will wish to consider these proposed remedies as part of its report.

Sincerely yours,

JAMES E. MURRAY,
United States Senate.

UNITED STATES SENATE,
COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS,
May 24, 1955.

Mr. ARTHUR S. FLEMMING,
Director, Office of Defense Mobilization,
Washington, D. C.

DEAR MR. FLEMMING: I have further reference to my letters to you of April 1 and May 3 concerning your order of March 23, 1955, reducing the Government's stockpile purchases by 150 million pounds, its effect upon the aluminum industry, and distribution of primary aluminum under the guaranteed marketing contracts.

I pointed out to you in my letter of April 14 that aluminum released from a stockpile obligation by your order should, under the guaranteed marketing contracts, be distributed by the primary producers to the independent aluminum users. According to information I have received, the Reynolds Metals Co. and the Kaiser Aluminum & Chemical Corp. have not distributed their share of stockpile forgiveness metal to independent users as required under their contracts with the Government. I am also advised that Alcoa, in view of the Government's pending antitrust suit against it in the United States District Court for the Southern District of New York, has agreed to so distribute its share of this metal.

I also indicated to you in my letter of April 1 that the three primary producers have been consistently violating the intent of their guaranteed marketing contracts issued under the Defense Mobilization Act of 1950 in their distribution of aluminum to independent users.

Instead of supplying the independent users with the metal they are required to sell to them from production plants covered by these contracts, the primary producers have sold independent users a combination of metal from new facilities constructed and operated under the contracts with metal produced from older plants which existed prior to those built under contracts.

The independents, under the intent of the Government's expansion programs, are entitled to their supply of metal from precontract facilities irrespective of production from contract-covered facilities. Furthermore, the independents are entitled to metal from the contract facilities separately from other metal.

As distribution from the primary producers stands now, the independent users are getting two half loaves put together to look like one loaf when actually they should be receiving two full loaves.

Any doubt as to this practice may be dispelled by a recent letter printed in the public press from Marion Caskie, an employee of the Reynolds Metals Co., to the Honorable EMANUAL CELLER. Figures presented by Caskie to Congressman CELLER plus figures pre-

sented by Reynolds in testimony before a subcommittee of the House Judiciary Committee in January and February of 1951 show that Reynolds has shortchanged independent users by more than 65 million pounds of aluminum in the first 8 months of 1955. (See attached memorandum.)

In view of the foregoing and since the pending action against Alcoa has apparently influenced that company to meet its obligations under the guaranteed marketing contracts, I suggest that you request the Attorney General to institute antitrust investigation and action against the Reynolds Metal Co. and Kaiser Aluminum & Chemical Corp. I suggest also that you ask the Attorney General to petition the United States District Court to keep its decree against Alcoa open for an extended period so that jurisdiction may be maintained over this company. Some thought should also be given to broadening the action against Alcoa to include Reynolds and Kaiser.

I further suggest that in order to alleviate recurring aluminum shortages, you request the Attorney General to take action to force divestiture of Alcoa's, Reynolds' and Kaiser's fabricating facilities from their production facilities. Such divestiture would enable primary aluminum producers to serve fabricators instead of competing with them.

Precedent for such action can be found in the Justice Department's sction against motion picture producers which resulted in a Federal Court decree ordering the producers to divest themselves of their motion picture distribution and exhibition companies.

I believe that suggestion should also be made by you to the Attorney General that action should be considered against Reynolds and Kaiser for breach of their guaranteed marketing contracts with the Government. The Government must undertake to remedy the distribution of metal under these contracts since by language in these contracts, the beneficiaries, i. e., the independent users, are unable to enforce their rights under the contracts.

Please be advised that I shall send a copy of this letter to the Attorney General. I shall also send a copy of this letter to the Honorable SIDNEY R. YATES, chairman of the Subcommittee No. 3 of the House Small Business Committee, currently conducting hearings on the aluminum situation. I shall ask that he incorporate my correspondence on this matter with you in the record of the hearings and explore these points in the course of the hearings.

I also call to your attention that there is an apparent shortage of aluminum, and that the third round of aluminum expansion was terminated without achieving its goal. Since under Executive Order No. 10574 of November 8, 1954, the Department of Interior was made responsible for development of programs for expansion of our domestic aluminum production, this matter falls under the purview of the Senate Interior and Insular Affairs Committee, of which I am chairman. I shall seriously consider a thorough investigation of the entire aluminum situation.

Sincerely yours.

JAMES E. MURRAY,
United States Senate.

MEMORANDUM

Subject: Letter dated May 2, 1955, from Marion M. Caskie, Reynolds Metals Co., to Hon. EMANUEL CELLER.

According to the above referenced letter Reynolds will have sold 104 million pounds of aluminum to nonintegrated users during the first 8 months of 1955. This according to the letter is "considerably more over and above its contract requirements than it gained from the recent stockpile take" (41,120,080 pounds).

The following figures demonstrate that Reynolds will have sold 65 million pounds less than required to independent users:

	Pounds
Reynolds should have sold independents from 1950 precontract facilities for first 8 months, 1955	[1] 79, 688, 000
Reynolds sales to independents required by contracts first 8 months, 1955	[2] 50, 000, 000
Reynolds should have sold stockpile forgiveness to independents, first 6 months, 1955	[2] 41, 120, 000
Total	170, 808, 000
Amount Reynolds actually sold	[2] 104, 000, 000
	66, 808, 000

[1] Source: Hearings before Subcommittee on Monopoly Power of Committee on the Judiciary, House of Representatives, January, February 1951, p. 862.

[2] Source: Caskie's letter, May 2, 1955, to Hon. EMANUEL CELLER.

PROPOSED AGREEMENT FOR COOPERATION WITH THE REPUBLIC OF TURKEY

Mr. PASTORE. Mr. President, on May 11, 1955, I inserted in the CONGRESSIONAL RECORD, at page 6054, the text of the proposed Agreement for Cooperation with the Republic of Turkey. Since that time there has been an exchange of correspondence with the Atomic Energy Commission relating to the terms of the proposed agreement. The exchange shows that the Commission is putting a limitation on certain clauses in the proposed agreement which, unintentionally, had the effect of making the agreement open ended as the amounts of special material to be transferred. This is not the case under the correspondence. In order to complete the public record, I am submitting the correspondence, and I request unanimous consent that it be published in full at this point in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

UNITED STATES
ATOMIC ENERGY COMMISSION,
Washington, D. C., May 19, 1955.

Hon. JOHN O. PASTORE,
Chairman, Subcommittee on Agreements for Cooperation, Joint Committee on Atomic Energy, Congress of the United States

DEAR SENATOR PASTORE: Your letter of May 12, 1955, relating to the proposed Agreement for Cooperation with the Turkish Republic has been considered by the Commission.

Paragraph B of article II of the proposed agreement was drafted in its present form in order to provide the degree of flexibility necessary to make possible the maximum usefulness of the 6 kilograms of special nuclear material, taking into consideration the problems of cooling and shipment. At no time will the amount of special nuclear material in the custody of the Turkish Government exceed the 6 kilogram limitation plus whatever additional amount may be needed in order to permit the efficient and continuous operation of the Turkish reactor or reactors during those periods when spent fuel is cooling in Turkey or replacement fuel is in transit.

The "terms and conditions" referred to in paragraph D of article II, which you also cite, are those associated with price and delivery. They bear no relation in any way to the quantity of materials to be leased under the agreement. The schedule of prices has not yet been determined and there are many details associated with the transfer and delivery of the material still to be worked out under this first agreement for cooperation.

Paragraphs B and D of the illustrative form bilateral agreement, are being rewritten in order to spell out the intent described above. We might also point, out for your information, that the 6-kilogram limitation presently is being restudied and it may be that, with respect to subsequent bilateral agreements, article II might properly provide for a greater quantity of special nuclear material to be made available.

Sincerely yours,

W. F. LIBBY,
Acting Chairman.

MAY 12, 1955.

DR. W. F. LIBBY,
Acting Chairman, Atomic Energy Commission, Washington, D. C.

DEAR DR. LIBBY: An examination of the proposed agreement for cooperation with the Turkish Republic discloses a problem on which I believe the Commission should take immediate action.

In article II, paragraph 8, the Commission is permitted to specify a greater quantity of uranium 235 which may be transferred under this agreement beyond the limit specified at 6 kilograms. This clause could turn the agreement into an open-ended agreement, especially in view of the additional language in article II, paragraph (d), permitting release of uranium to be "on such terms and conditions as may be mutually agreed."

I know that it was the intent of the Congress in establishing the conditions set forth in section 123 of the Atomic Energy Act of 1954 that the agreement for cooperation be a firm agreement within reasonable limits of flexibility.

I respectfully recommend that the Commission give firm assurances to the joint committee as to the limits within which the Commission intends to exercise the authority retained by it under these two clauses.

Sincerely yours,

JOHN O. PASTORE,
Chairman, Subcommittee on Agreements for Cooperation.

REPEAL OF SECTIONS 452 AND 462 OF THE INTERNAL REVENUE CODE OF 1954

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, the Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H. R. 4725) to repeal sections 452 and 462 of the Internal Revenue Code of 1954.

Mr. KNOWLAND. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The secretary will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. KNOWLAND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHNSON of Texas. Mr. President, the distinguished chairman of the Finance Committee, the senior Senator from Virginia [Mr. BYRD], has just entered the Chamber. I understand that he is prepared to make a brief statement explaining the bill, as I am sure the able

ranking minority member of the committee, the senior Senator from Colorado [Mr. MILLIKIN], is also prepared to do.

Mr. BYRD. Mr. President, it will be recalled that when House bill 4259, providing for extension of the corporate and excise tax rates, was before the Senate, the distinguished Senator from Texas [Mr. JOHNSON] offered an amendment which, among other things, proposed to strike out section 462. That section was being studied at that time by the Ways and Means Committee. Accordingly, I requested that action on the section be deferred until the congressional tax committees—namely, the House Ways and Means Committee and the Senate Finance Committee—had an opportunity to study it. For that reason, the Senate rejected the amendment of the Senator from Texas to House bill 4259.

When the Secretary of the Treasury appeared before the Ways and Means Committee, he advocated not only the repeal of section 462, relating to reserves for estimated expenses, but also the repeal of section 452, relating to prepaid income. Identical bills for the repeal of these sections were introduced in the House of Representatives by the chairman of the Ways and Means Committee and by the ranking minority member of that committee. The Ways and Means Committee reported to the House of Representatives House bill 4752 with amendments designed to alleviate certain hardship cases resulting from such repeal. House bill 4725 passed the House of Representatives, was sent to the Senate, and was referred to the Senate Finance Committee.

Following the same procedure as that adopted by the House Ways and Means Committee, our committee held public hearings on the bill. The Secretary of the Treasury appeared before our committee, and took the same position he had taken before the Committee on Ways and Means. He stated the original objective of section 452 and section 462 was to conform business accounting with tax accounting. He further stated that it now appeared that the provisions were being construed as extending beyond their original intent, and that as written they could not be properly restricted by regulations to carry out the original objective and protect the revenue. He said that "repeal is required rather than amendment, so as to be sure that in any new approach to the original objective the revenue is adequately protected."

Since the Secretary of the Treasury is of the opinion that the present sections will result in a much larger loss of revenue than was originally intended and that a new approach should be made to the original objective of making tax accounting conform to business accounting, our committee voted to approve the House bill. Therefore the bill reported by the committee repeals both section 452 and section 462 from the original date of their enactment. The effect of the repeal is to continue the provisions of the prior law in this area for 1954 and subsequent years.

Aside from certain clarifying amendments, the Committee on Finance proposes that taxpayers be given additional time to report and pay the increased tax due to the repeal of these sections. A committee amendment extends the period within which these additional payments may be made from September 15, 1955—the date under the House bill—to December 15, 1955.

The committee has also provided that for the purposes of computing the accumulated earnings tax, the personal holding company tax, and the taxation of regulated investment companies, dividends paid after the due date of the return and on or before December 15, 1955, are, at the election of the taxpayer, to be treated as timely paid. This rule applies only if such dividends are attributable to an increase in taxable income for the taxable year on account of the repeal of section 452 and 462.

I hope the Senate will act promptly on this bill. The Committee on Finance expects to consider this matter further in the near future and determine whether a proper substitute can be worked out which will accomplish the original objective without resulting in a large loss of revenues.

Mr. DIRKSEN. Mr. President, will the Senator from Virginia yield?

Mr. BYRD. I yield.

Mr. DIRKSEN. I certainly would be the last Member of the Senate to complicate the arduous labors of the Finance Committee, but I should like to invite attention to the fact that in the 83d Congress, in a sort of residue bill, the Finance Committee approved a modification of section 723 of the Revenue Act, which involved recapitalized railroads. I could offer it as an amendment, but I shall be guided entirely by the attitude of the Finance Committee and its distinguished chairman. It is my understanding that the Senator does not want this particular bill complicated with any unnecessary amendments.

Mr. BYRD. That is the feeling on the part of the Finance Committee. There will be general consideration of all such tax measures at the earliest possible time. In fact, it has already been begun.

Mr. DIRKSEN. Is that likely to occur in the present Congress?

Mr. BYRD. There may be one or two bills ready for consideration. Of course, such measures must originate in the House of Representatives, and be considered by the House Ways and Means Committee. We realize that the complete repeal of these two sections will require some adjustment later. Of course, the subject in which the Senator is interested is not affected by these two sections.

Mr. DIRKSEN. That is correct.

Mr. BYRD. Some adjustment will be necessary later. As chairman of the Finance Committee, I assure the Senator that every possible consideration will be given to his amendment. I would much rather not see it placed in the pending bill.

Mr. DIRKSEN. Mr. President, if there is no objection, I ask unanimous consent to have printed in the RECORD at this point, as a part of my remarks, a copy of the bill which was introduced in the House and referred to the House Ways and Means Committee. I refer to House bill 3256, a bill to amend section 723 of the Internal Revenue Code.

There being no objection, the bill (H. R. 3256) to amend section 723 of the Internal Revenue Code was ordered to be printed in the RECORD, as follows:

Be it enacted, etc., That section 723 of the Internal Revenue Code of 1939 (relating to equity invested capital in special cases) is hereby amended by adding at the end thereof the following new subsection:

"(c) If a recapitalization of a railroad corporation, as defined in section 77m of the National Bankruptcy Act, as amended, was effected after December 31, 1938, in pursuance of an order of the court having jurisdiction of such corporation—

"(1) in a receivership proceeding; or

"(2) in a proceeding under section 77 of the National Bankruptcy Act, as amended,

the equity invested capital of such corporation shall (at the election of the taxpayer) be the same as if the assets had been acquired in a transaction to which section 760 is applicable."

SEC. 2. This amendment shall be effective for taxable years beginning after December 31, 1941.

Mr. DIRKSEN. In that connection, I ask unanimous consent to have printed in the RECORD at this point, as a part of my remarks, a portion of Senate Report No. 2038, on House bill 6440, in the 83d Congress, 2d session. It is a report from the Committee on Finance relating to this particular item.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SECTION 3. RAILROAD CORPORATIONS SUBJECT TO RECEIVERSHIP OR BANKRUPTCY PROCEEDINGS

This section, for which there is no corresponding provision in the House bill, amends section 723 of the Internal Revenue Code of 1939 (relating to the computation of equity invested capital in special cases under the World War II excess-profits tax) to provide that, in the case of a recapitalization of a railroad corporation pursuant to receivership or bankruptcy proceedings, the equity invested capital is to be the same as if the corporate assets were transferred to a new corporation. Where the properties of a railroad corporation are transferred to a new corporate entity in receivership or bankruptcy proceedings, the equity invested capital is determined under section 760 of the World War II excess-profits tax and reflects the basis of the transferred assets. The treatment thus provided in the case of a new corporation results from the addition of sections 112 (b) (9) and 113 (a) (20) to the 1939 code by section 143 of the Revenue Act of 1942.

The report of the Senate Finance Committee accompanying the Revenue Act of 1942 (S. Rept. No. 1631, 77th Cong., 2d sess.) indicates that the purpose of the committee was to provide equal treatment whether a new corporation was organized, or the existing corporate entity was used, to effectuate the plan of reorganization. It has been brought to the attention of your committee, however, that, because of subsequent court decisions, some doubt exists that a recapitalization of an existing corporate entity in receivership or bankruptcy proceedings would be accorded as favorable treatment as where the assets are transferred to a new corporation. The adoption of this amendment thus carries out the expressed intent of the committee in connection with the changes affecting such reorganizations adopted in the Revenue Act of 1942.

Under the amendment, the equity invested capital of a railroad corporation which has been recapitalized after December 31, 1938, in pursuance of an order of the court having jurisdiction of such corporation, either in a receivership proceeding or in a proceeding under section 77 of the National Bankruptcy Act, will be determined in the same manner

as if the assets which the corporation held immediately following the recapitalization had been transferred to a new corporation in a transaction to which section 760 of the Internal Revenue Code of 1939 is applicable. For this purpose, all of such assets are to be considered as having been transferred to a new corporation in exchange for the stock, securities, and other liabilities existing immediately after the recapitalization. The amendment is effective with respect to taxable years beginning after December 31, 1941.

It is estimated that the revenue effect of this provision will be negligible.

The ACTING PRESIDENT pro tempore. The committee amendments will be stated.

The committee amendments were, on page 2, line 18, after the word "year", to insert "ending on or before the date of the enactment of this act"; in line 22, after the word "before", to strike out "September" and insert "December"; on page 3, line 1, after the word "before", to strike out "September" and insert "December"; in line 20, after the word "return", to insert "Notwithstanding the preceding sentence, that portion of the amount of increase in tax for any taxable year which is attributable to a decrease (by reason of the enactment of this act) in the net operating loss for a succeeding taxable year shall not be treated as tax shown on the return." ; on page 4, line 2, after the word "before", to strike out "September" and insert "December"; at the beginning of line 7, to strike out "September" and insert "December"; on page 5, line 7, after the word "before", to strike out "September" and insert "December"; on page 6, line 1, after the word "before", to strike out "September" and insert "December"; after line 3, to insert:

(4) Treatment of certain dividends: Subject to such regulations as the Secretary of the Treasury or his delegate may prescribe, for purposes of section 561 (a) (1) of the Internal Revenue Code of 1954, dividends paid after the 15th day of the third month following the close of the taxable year and on or before December 15, 1955, may be treated as having been paid on the last day of the taxable year, but only to the extent (A) that such dividends are attributable to an increase in taxable income for the taxable year resulting from the enactment of this act, and (B) elected by the taxpayer.

At the beginning of line 16, to change the section number from "(4)" to "(5)"; and at the beginning of line 21, to change the section number from "(5)" to "(6)."

The amendments were agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment.

Mr. GORE. Mr. President, I offer the amendment which I send to the desk. I ask unanimous consent that the chairman of the committee be supplied with a copy and that the formal reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Without objection, the amendment will be printed in the RECORD at this point.

The amendment of Mr. GORE was, at the end of the bill, to insert a new section, as follows:

SEC. —. Repeal of provisions allowing credit against tax and exclusion from gross income for dividends received by individuals.

(a) Repeal of section 34 and section 116: Effective with respect to taxable years beginning after June 30, 1955, section 34 (relating to credit for dividends received by individuals) and section 116 (relating to partial exclusion from gross income of dividends received by individuals) are hereby repealed.

(b) Application of section 34 to taxable years beginning before July 1, 1955: Effective with respect to taxable years beginning before July 1, 1955, section 34 (a) (relating to credit for dividends received by individuals) is hereby amended to read as follows:

"(a) General rule: Effective with respect to taxable years ending after July 31, 1954, and beginning before July 1, 1955, there shall be allowed to an individual, as a credit against the tax imposed by this subtitle for the taxable year, an amount equal to the following percent of the dividends which are received after July 31, 1954, from domestic corporations and are included in gross income:

"(1) 4 percent, in the case of a taxable year ending before July 1, 1955.

"(2) 2 percent, in the case of the taxable year beginning on January 1, 1955, and ending on December 31, 1955.

"(3) In the case of a taxable year beginning before July 1, 1955, and ending after June 30, 1955 (other than one beginning on January 1, 1955, and ending on December 31, 1955), a percentage obtained by—

"(A) multiplying 4 percent by the number of calendar months in the taxable year prior to July 1, 1955; and

"(B) dividing the product obtained in subparagraph (A) by the total number of calendar months in the taxable year.

For purposes of this paragraph and of subsection (b) (2) (D), a calendar month only part of which falls within the taxable year (A) shall be disregarded if less than 15 days of such month are included in such taxable year, and (B) shall be included as a calendar month within the taxable year if more than 14 days of such month fall within the taxable year."

(c) Limitation on credit under section 34 applicable to taxable years beginning before July 1, 1955: Effective with respect to taxable years beginning before July 1, 1955, section 34 (b) (2) (relating to limitation on amount of credit) is hereby amended to read as follows:

"(2) The following percent of the taxable income for the taxable year:

"(A) 2 percent, in the case of a taxable year ending before January 1, 1955.

"(B) 4 percent, in the case of a taxable year ending after December 31, 1954, and before July 1, 1955.

"(C) 2 percent, in the case of the taxable year beginning on January 1, 1955, and ending on December 31, 1955.

"(D) In the case of a taxable year beginning after December 31, 1954, and before July 1, 1955, and ending after June 30, 1955 (other than one beginning on January 1, 1955, and ending on December 31, 1955), a percentage obtained by—

"(i) multiplying 4 percent by the number of calendar months in the taxable year prior to July 1, 1955; and

(ii) dividing the product obtained in clause (i) by the total number of calendar months in the taxable year."

(d) Application of section 116 to taxable years beginning before July 1, 1955: Effective with respect to taxable years beginning before July 1, 1955, section 116 (a) (relating to partial exclusion from gross income of dividends received by individuals) is hereby amended to read as follows:

"(a) Exclusion from gross income: Effective with respect to any taxable year ending after July 31, 1954, and beginning before July 1, 1955, gross income does not include amounts received by an individual as dividends from domestic corporations, to the extent that the dividends do not exceed—

"(1) $50, in the case of a taxable year ending before July 1, 1955.

"(2) $25, in the case of the taxable year beginning on January 1, 1955, and ending on December 31, 1955.

"(3) In the case of a taxable year beginning before July 1, 1955, and ending after June 30, 1955 (other than one begining on January 1, 1955, and ending on December 31, 1955), an amount obtained by—

"(A) multiplying $50 by the number of calendar months in the taxable year prior to July 1, 1955; and

"(B) dividing the product obtained in subparagraph (A) by the total number of calendar months in the taxable year.

For purposes of this paragraph, a calendar month only part of which falls within the taxable year (i) shall be disregarded if less than 15 days of such month are included in such taxable year, and (ii) shall be included as a calendar month within the taxable year if more than 14 days of such month fall within the taxable year.

If the dividends received in a taxable year exceed the amounts prescribed in paragraph (1), (2), or (3), as the case may be, the exclusion provided by this subsection shall apply to the dividends first received in such year."

(e) Technical amendments:

(1) The table of sections to part IV of subchapter A of chapter 1 is hereby amended by striking out "Sec. 34. Dividends received by individuals."

(2) Section 35 (b) (1) is hereby amended by striking out "the sum of the credits allowable under sections 33 and 34" and inserting in lieu thereof: "the credit allowable under section 33."

(3) Section 37 (a) is hereby amended by striking out "section 34 (relating to credit for dividends received by individuals),".

(4) The table of sections to part III of subchapter B of chapter 1 is hereby amended by striking out "Sec. 116. Partial exclusion of dividends received by individuals."

(5) Section 301 (f) is hereby amended by striking out paragraph (4).

(6) Section 584 (c) (2) is hereby amended—

(A) by striking out the heading and inserting in lieu thereof "partially tax-exempt interest.—";

(B) by striking out "in the amount of dividends to which section 34 or section 116 applies, and"; and

(C) by inserting a comma after "interest" in the first sentence.

(7) Section 642 (a) is hereby amended by striking out paragraph (3).

(8) Section 643 (a) is hereby amended by striking out paragraph (7).

(9) Section 702 (a) (5) is hereby amended by striking out "a credit under section 34, an exclusion under section 116, or."

(10) Section 854 (a) is hereby amended by striking out "section 34 (a) (relating to credit for dividends received by individuals), section 116 (relating to an exclusion for dividends received by individuals), and."

(11) Section 854 (b) is hereby amended by striking out "the credit under section 34 (a), the exclusion under section 116, and" in paragraph (1) and by striking out "the credit under section 34, the exclusion under section 116, and" in paragraph (2) .

(12) Section 854 (b) (3) is hereby amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) The term 'aggregate dividends received' includes only dividends received from domestic corporations other than any dividend from—

"(i) an insurance company subject to a tax imposed by part I or part II of subchapter L (sec. 801 and following);

"(ii) a corporation organized under the China Trade Act, 1922 (see sec. 941); or

"(iii) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, either is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations) or is a corporation to which section 931 (relating to income from sources within the possessions of the United States) applies.

"(C) In determining the aggregate dividends received, any amount allowed as a deduction under section 591 (relating to deduction for dividends paid by mutual savings banks, etc.) shall not be treated as a dividend.

"(D) In determining the aggregate dividends received, a dividend received from a regulated investment company shall be subject to the limitations precribed in subsection (a) and paragraph (2) of this subsection."

(13) Section 6014 (a) is hereby amended by striking out "34 or."

(14) The amendments made by this subsection shall apply only with respect to taxable years beginning after June 30, 1955.

Mr. GORE. Mr. President, the purpose and effect of this amendment, if adopted, would be to repeal the dividend credit provisions of the tax law enacted last year. I feel that those provisions discriminate against investment in private, noncorporate enterprise. They operate to discriminate against income received from investment in noncorporate enterprise. They operate to give an undue and unwarranted tax advantage to recipients of income from corporate investment.

I feel that people who have invested in corporate stock, and people who incorporate their businesses, do so with their eyes open, with the full knowledge that under the law a corporation is a separate entity. Unless we continue to treat corporations as separate persons under the law with respect to taxation as well as with respect to the advantages accorded to corporations, inequities will inevitably flow therefrom.

I hope the chairman of the committee will see fit to accept the amendment. When this question was before the Senate last year, the Senate voted against giving special credit to income from dividends. I believe the vote was 72 or 73 to 12. That was the last time the Senate expressed itself on this particular issue. Because of that overwhelming vote against this provision, I hope the chairman of the committee will see fit to accept the amendment and take it to conference, and see if the differences with the House of Representatives can be resolved.

Mr. BYRD. Mr. President, the distinguished Senator from Tennessee appeared before the Finance Committee and made an exceedingly able presentation of the subject matter of his amendment. The committee gave very earnest consideraiton to what he said, but in view of the nature of this bill it was the concensus that it should go back to the House without substantial amendment. Practically the only amendment which was adopted was a change of date, so as to allow a little more time for payment of the taxes with for which returns have already been made.

I hope the Senator from Tennessee will not insist upon his amendment. I cannot say exactly when this subject will be considered by the Senate Committee on Finance, because, of course, such proposals must originate in the House of Representatives. However, I assure the Senator from Tennessee that the joint staff is already investigating all these questions, in the fullest measure.

I can assure him that every consideration possible will be given to this amendment when a general review of or changes in tax legislation are taken up.

Mr. GORE. Mr. President, the distinguished senior Senator from Virginia, the chairman of the committee, is very generous. I appreciate his statement. I cannot be unmindful of the desire of the committee to expedite the enactment of the pending provision and that further delay will create further inequities. Likewise, I must acknowledge that I am in no position to insist that this amendment alone be considered as an amendment to the bill. There are other inequities in the Revenue Act of 1954 which the junior Senator from Tennessee would like to see removed.

We have just passed a big road bill. One way to raise the revenue to pay for this program is to close the loopholes in the 1954 tax law. I am prepared to do that and to support additional revenue measures to place the program on a pay-as-we-go basis.

I feel that this particular matter should have been taken care of early in this session, because it is such a glaring inequity. I am ready to do so now, as well as to remove other inequitable provisions.

However, I doubt if I am in any position to insist that the amendment I have offered should alone be considered. If the committee has in its wisdom adopted the policy that no amendment should be attached to the measure because of the urgency of the situation, I do not ask for preferential treatment. With the assurance from the chairman of the committee that the matter will be treated without prejudice in the review of tax legislation probably early in the next session, I withdraw my amendment. At such time as the Senate considers tax revision I shall press for removal of this inequity.

I stand ready to join my colleagues at any time to raise sufficient revenue to meet the requirements of the highway program.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee withdraws his amendment. The bill is open to further amendment.

If no further amendment is to be offered, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

REDUCTION OF INTEREST RATES ON DISASTER LOANS

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proced to the consideration of Order No. 365, S. 1755.

The ACTING PRESIDENT pro tempore. The Secretary will state the bill by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 1755) to amend the act of April 6, 1949, as amended, and the act of August 31, 1954, so as to provide that the rate of interest on certain loans made under such acts shall not exceed 3 percent per annum.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. JOHNSTON of South Carolina. Mr. President, I acted as chairman of the subcommittee which considered this bill. It was reported unanimously by the Committee on Agriculture and Forestry. I do not believe there is any need for my discussing it in detail. The interest rate on certain disaster loans originally was set at 3 percent. That interest rate remained in effect until January of this year, when it was increased to 5 percent. At the present time the Department of Agriculture has the authority to regulate interest rates on these loans. The committee feels that on disaster loans the interest rate should be fixed at 3 percent.

Earlier in the session I spoke out against the increase in the interest rate on disaster loans.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. JOHNSTON of South Carolina. I yield.

Mr. DOUGLAS. Did I correctly understand the Senator from South Carolina to say that the interest rate on disaster loans was formerly 3 percent and that it was increased to 5 percent in January of this year?

Mr. JOHNSTON of South Carolina. It was raised in January of this year.

Mr. DOUGLAS. Who raised the interest rate?

Mr. JOHNSTON of South Carolina. It was done by the Secretary of Agriculture. The rate was raised by the Department of Agriculture.

Mr. DOUGLAS. Mr. Benson showed his affection for the farmers of America by increasing the interest rate from 3 percent to 5 percent on disaster loans; is that correct?

Mr. JOHNSTON of South Carolina. Yes; that is correct. I have spoken out against the increase. That is what was done.

Mr. DOUGLAS. The Senator from South Carolina is now trying to undo the injustice which was perpetrated on the American farmers by the Secretary of Agriculture; is that correct?

Mr. JOHNSTON of South Carolina. That is correct. This is my bill. I should also like to say that it was the unanimous opinion of the committee that the rate should be set at 3 percent.

Mr. DOUGLAS. The Senator from South Carolina is greatly to be commended for his action. It is only regrettable that his activities had to be called into play to correct an injustice perpetrated on the American farmers by the Secretary of Agriculture.

Mr. JOHNSTON of South Carolina. I thank the Senator.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. JOHNSTON of South Carolina. I yield.

Mr. WILLIAMS. As the Senator from South Carolina has pointed out, the bill was reported to the Senate unanimously by the Committee on Agriculture and Forestry. In reference to the point raised by the Senator from Illinois [Mr. DOUGLAS] it should be noted that the Committee on Agriculture and Forestry felt the interest rate on disaster loans should not have been raised to 5 percent by the Department of Agriculture. However, the Department of Agriculture raised the interest rate to 5 percent under a law which had been passed by Congress, of which the Senator from Illinois and I are Members. Now the interest rate is being rolled back by the same Congress. I am not trying to excuse the action of the Department of Agriculture, but I believe it should be made clear that the action was taken by the Department in accordance with a law passed by Congress, which made it possible for the Department to raise the interest rate to 5 percent.

The Secretary of Agriculture is perfectly willing that Congress should take the proposed action. Therefore, Mr. President, in all fairness to the Secretary of Agriculture, I think it should be stated that we in Congress established the policy under which it was possible for the Department of Agriculture to increase the rate from 3 percent to 5 percent. In other words, the Secretary of Agriculture decided to establish a uniform pattern on these loans, and put them all in the 5-percent category. I believe in the final analysis it is our responsibility. I am glad the Committee on Agriculture and Forestry has reported the bill unanimously. I am sure Congress will wish to pass it.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. JOHNSTON of South Carolina. I yield.

Mr. DOUGLAS. I should like to ask the Senator from South Carolina whether the increase in the interest rate from 3 percent to 5 percent in January of this year was mandatory and compelled by the law, or whether optional powers were granted to the Secretary of Agriculture, which he took advantage of to increase the interest rate.

Mr. JOHNSTON of South Carolina. I will answer that question in this way: In the hearings before our subcommittee, it was brought out that the subject of the interest rate had been under discussion in the Department of Agriculture for nearly 2 years. Finally, the Department decided to place these loans in the 5-percent category.

Mr. DOUGLAS. It was not compulsory for the Secretary of Agriculture to increase the interest rate, was it?

Mr. JOHNSTON of South Carolina. It was not compulsory.

Mr. DOUGLAS. To the contrary, it was a discretionary decision which he made?

Mr. JOHNSTON of South Carolina. The Senator is correct. The Department decided it would put all disaster loans in the 5-percent category so that they, the Department, would have no trouble in distinguishing between the different kinds of loans.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. JOHNSTON of South Carolina. I yield.

Mr. WILLIAMS. Is it not correct to say that the Secretary of Agriculture, in setting the interest rate on disaster loans at 5 percent, put such loans in the same category as other loans, and thereby established a uniform pattern, with the thought that if Congress wanted to give special consideration to this group, it should pass appropriate legislation to that effect?

Mr. JOHNSTON of South Carolina. Congress had enacted laws setting the interest rate at 5 percent on other loans. The Secretary of Agriculture thought it best to set the interest rate on disaster loans at 5 percent. Instead of distinguishing between the different types of loans, he thought it would be best to set the interest at 5 percent on all of them. According to the testimony, which I hold in my hand, he had the subject under discussion for 2 years before he decided to raise the interest rate on disaster loans from 3 percent to 5 percent.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. JOHNSTON of South Carolina. I yield.

Mr. AIKEN. I may be repeating what has already been said, because I have just come to the floor from a committee hearing. I believe it should be made clear that the interest rate on disaster loans was not set by the Secretary of Agriculture at 5 percent out of pure meanness on his part, but was set at 5 percent in order to have the interest rate on certain types of loans made uniform.

Under legislation enacted by Congress, livestock producers suffering disaster were required to pay 5-percent interest on their loans. Farmers Home Administration loans also were made subject to 5-percent interest.

Therefore, in fairness to the livestock producers, the interest rate was set at 5 percent for the type of loans made to farmers who had also suffered disaster.

I do not know that there is any objection on the part of the Department of Agriculture of Congress setting the rate at 3 percent if it determines that should be the policy.

It was found in connection with some of the 3-percent money that abuses had taken place, and that some persons who had borrowed money at 3 percent were actually borrowing to expand their business, thus providing greater competition for those who were paying 5 percent, or even more, in the event they were borrowing from private banks.

Mr. JOHNSTON of South Carolina. What the Senator from Vermont has said is entirely correct.

Mr. AIKEN. I think the Department will be very happy to have Congress fix the policy and the interest rate.

Mr. JOHNSTON of South Carolina. The Department did not oppose the reduction from 5 to 3 percent. They said that if Congress thought it was the proper thing to do, they would be glad to go along.

Mr. AIKEN. The increase was made originally in order to have a uniform rate of interest for different types of loans.

Mr. MORSE. Mr. President, will the Senator from South Carolina yield?

Mr. JOHNSTON of South Carolina. I yield.

Mr. MORSE. Was it necessary, under the law, for the Secretary of Agriculture to increase the rate of interest?

Mr. JOHNSTON of South Carolina. It was not necessary. It was a discretionary matter with the Secretary of Agriculture.

Mr. MORSE. When he increased the rate to 5 percent in order to put several types of loans on a comparable basis, referring to the type of loan about which the Senator from Vermont has been speaking, it was not because of any actual mandate but because he thought it would be good policy to have the same rate apply to this type of loans?

Mr. JOHNSTON of South Carolina. That is entirely correct. I presume the idea was that the loans would be easier to administer.

Mr. MORSE. Did the Secretary of Agriculture make public the increase in interest rate at the time he raised the rate?

Mr. JOHNSTON of South Carolina. I would answer the Senator by saying that the disaster came at a subsequent date, and it was some 2 or 3 months later when it was ascertained that the interest rate had been raised.

Mr. MORSE. Of course, we must be on guard against possible abuse, but the responsibility rests on the lending agency to see to it that each loan is a deserved one and is being made to fill a specific need. If the person who receives the loan violates his understanding with the department which makes the loan, are there any administrative procedures whereby the loan can be canceled?

Mr. AIKEN. Mr. President, if I may answer that question, I think there are such cases going back over a number of years. It is something of a problem. There are always borrowers who violate the conditions of a loan, but it is not so easy as it might appear simply to collect the money and get the Government out of the transaction.

Mr. MORSE. I understand that.

Mr. AIKEN. I have not read the report accompanying the bill, but it was agreed in the committee that we should state that we expect the department or agency making such loans to exercise unusual diligence to see to it that the privilege of securing these loans is not abused. There actually have been some cases of disaster loans having been used not for recovery, but for expansion. They may have been used for recovery initially, but when some of those to whom the loans were made had fully recovered, they desired to expand. That is something we all want to do, of course. The desire for expansion overwhelmed them, and they continued to use the low-cost money for expansion. I have heard that in some of the disaster-stricken counties there was actually an increase

of 700,000 head of livestock. It is difficult to overcome that situation. Lending agencies do not like to say "No" to a man who is suffering from a disaster.

Mr. MORSE. I sympathize with the comments made by the Senator from Vermont. The point I was seeking to make is that I do not think we can justify a high interest rate as a policeman in these matters. I think we must determine the public policy question as to whether there is need for a loan in these cases, and, if so, then we should deal with the question of a low-interest rate basis. The committee report apparently holds that we must make it very clear to the administrators that we expect them to exercise extraordinary vigilance in seeing to it that a loan is not obtained for expansion purposes. I think the Senate has a duty to make these loans available for legitimate cases on a low-interest rate basis.

Mr. JOHNSTON of South Carolina. The Department said that the reason why the rate was increased was that some persons had misused it. The committee said to the Department, "You must be careful in this matter. We will reduce the rate to 3 percent, but it is up to you to see that it is not abused."

Mr. AIKEN. Mr. President, will the Senator from South Carolina yield?

Mr. JOHNSTON of South Carolina. I yield.

Mr. AIKEN. The livestock operators are paying back their loans very rapidly. I understand that of some $55 million worth of loans which were made, $25 million of them have already been paid back. Those are rough figures, they may not be exact. But there has been a recovery in the cattle industry. The livestock producers have been making fewer loans recently; so I think the need is perhaps not so acute as it was.

Mr. JOHNSTON of South Carolina. I am glad the Senator has brought that out. Such emergency loans have been paid back in a higher percentage than have any other loans.

Mr. AIKEN. I agree that 3 percent is a much fairer rate of interest.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield?

Mr. JOHNSTON of South Carolina. I yield.

Mr. LANGER. Mr. President, I desire to associate myself with those who are in favor of the passage of this bill. As every Member of the Senate knows, North Dakota has been declared a disaster area. I have received numerous letters protesting the increase in the interest rate from 3 percent to 5 percent. The demand for this bill is universal. I know of no one who has opposed it.

Mr. JOHNSTON of South Carolina. Mr. President, I appreciate the remarks of the Senator from North Dakota. He is always endeavoring to help the man who needs assistance.

Mr. THURMOND. Mr. President, will my colleague yield?

Mr. JOHNSTON of South Carolina. I yield.

Mr. THURMOND. Mr. President, I rise in support of the bill. My colleague and I introduced bills on this subject on the same day, and they were considered by the Committee on Agriculture and Forestry. I went before the committee and made a statement at that time. It is my feeling that every consideration should be given to the farmers of the United States. I know of no segment of our population which receives so little as do the farmers. I can see no objection to this bill. Only those persons who cannot obtain loans from other sources are eligible for these loans. Certainly, if a class of people who are among the lowest income group have suffered disaster, they should be allowed to obtain these loans at a reasonable rate of interest.

It is my understanding that the Department of Agriculture does not oppose the bill. Mr. Scott, who attended the hearing when I went before the committee, stated to me that they did not oppose the bill. I certainly hope the Senate will pass it, because the difference in interest rate will be a great help to the small farmers. Anything we can do to help them in their distress this great country is able to do, and, in my opinion, it should do.

Mr. President, I support the bill, and I hope the Senate will see fit to pass it.

Mr. JOHNSTON of South Carolina. Mr. President, I ask unanimous consent to have printed in the RECORD at this point an explanation of the bill.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

EXPLANATION OF S. 1755

On January 3 the interest rate on certain emergency loans to farmers was increased from 3 percent to 5 percent. This bill would reduce the interest rate on these loans back to a maximum of 3 percent.

Three types of loans are covered by the bill:

First, loans to farmers who have suffered from area wide production disasters;

Second, loans to farmers located in areas where major disasters covered by Public Law 875 of the 81st Congress have been coupled with economic disasters (as where drought has been coupled with forced sales of stock and a sharp break in market prices); and

Third, loans of the type covered by Public Law 727 of the 83d Congress, which provided for loans during the period ending this June 30 in areas where normal credit is temporarily not available.

The Department raised the interest rate on January 3 on these loans to prevent them from becoming competitive with commercial loans, and because the rate of 5 percent had been fixed by Congress for production and subsistence loans and special livestock loans. These loans were never intended to be competitive with commercial loans, and every effort should be made to see that they are not made to persons who can obtain ordinary commercial loans. However, the committee did not believe that the interest rate should be raised to accomplish this purpose, thereby penalizing all of the farmers who have suffered these disasters, are entitled to these loans, and can ill afford to pay the additional interest.

The ACTING PRESIDENT pro tempore. The bill is open to amendment.

If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That subsection (a) of section 2 of the act of April 6, 1949, as amended (63 Stat. 43; 12 U. S. C., sec. 1148a–2 (a)), is amended by striking out the last sentence of such subsection and inserting in lieu thereof the following: "Such loans shall be made at such rate of interest, not to exceed 3 percent per annum, and on such general terms and conditions as the Secretary shall prescribe for such area or region."

SEC. 2. Subsection (b) of section 2 of the act of April 6, 1949, as amended (12 U. S. C., sec. 1148a–2 (b)), is amended by striking out the last sentence of such subsection and inserting in lieu thereof the following: "Such loans shall be made at such rate of interest, not to exceed 3 percent per annum, and on such general terms as the Secretary shall prescribe for such area.".

SEC. 3. Clause (4) of section 2 of the act entitled "An act to provide emergency cred it," approved August 31, 1954 (68 Stat. 999), is amended to read as follows: "be made at such rate of interest, not to exceed 3 percent per annum, and on such terms and conditions as the Secretary shall prescribe for such area or areas; and."

STATUS OF VISA APPLICATIONS UNDER THE REFUGEE RELIEF ACT OF 1953

Mr. LANGER. Mr. President, as chairman of the Subcommittee on Refugees, Escapees, and Expellees, I am very pleased by the figures shown on this week's report from the Department of State dated May 20, 1955, showing the status of visa applications under the Refugee Relief Act of 1953. According to this information, there has now been issued a total of 30,652 visas which are distributed as follows:

Italy	19,015
Greece	5,126
Netherlands	566
Germany	2,166
Austria	2,502
Far East	734
Others	63

Shortly after I became chairman of the subcommittee, it was forcibly brought to my attention that Public Law 203, commonly known as the Refugee Relief Act of 1953, was well on its way to becoming a complete failure, if it had not already become one. Our Subcommittee on Refugees held hearings on the administration of this act on April 13, 14, 15, 20, 21, and 22, 1955, which were recessed subject to the call of the Chair. Prior to the date of these hearings, the statistical report from the Department of State, dated March 18, 1955, shows the total number of visas issued as only 22,887 which were distributed as follows:

Italy	15,548
Greece	3,602
Netherlands	468
Germany	977
Austria	1,573
Far East	482
Others	237

From the foregoing you will readily see that between March 18, 1955, and May 20, 1955, 7,765 visas have been issued—the greatest number in any single period. I believe that the speeding up of the refugee relief program has been

due, at least in part, to the full and complete public hearings which the subcommittee has been conducting.

I am especially grateful to the distinguished Senator from Utah [Mr. WATKINS], the distinguished Senator from Missouri [Mr. HENNINGS], and the distinguished Senator from South Carolina [Mr. JOHNSTON] for the assistance which they gave to the subcommittee.

The subcommittee will continue to work on the matter and to submit weekly reports to the Senate, showing the progress which is being made.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the statistical report from the Department of State, dated May 20, 1955.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

Refugee relief program—Status of visa applications, May 20, 1955

	Italy	Greece	Netherlands	Germany	Austria	France	Great Britain	Belgium	Far East	Others	Total
1. Applicants notified of documents required	64,592	18,023	1,305	20,668	10,266	1,817	785	1,302	2,375	431	121,564
2. Visas issued	19,015	5,126	566	2,166	2,502	112	139	229	734	63	30,652
3. Visas refused	1,540	711	27	1,951	875	137	94	17	573	22	5,947
4. Canceled action	547	114	125	943	582	67	121	104	43	43	2,689
5. Applicants still in process	43,490	12,072	587	15,608	6,307	1,501	431	952	1,025	303	82,276
6. Assurances received by Administrator	6,085	9,296	339	11,792	4,496	1,142	837	614	2,812	1,239	38,652
7. Assurances canceled/returned	542	609	96	673	127	74	107	10	361	329	2,928
8. Assurances verified and sent to field	5,163	8,206	192	10,538	4,172	980	650	560	2,251	798	33,500

NOTE.—All figures cumulative. Items 6, 7, and 8 reflect principal aliens only. State.—FD, Washington, D. C.

Mr. DOUGLAS. Mr. President, will the Senator from North Dakota yield for a question?

Mr. LANGER. Certainly.

Mr. DOUGLAS. I think the Senator from North Dakota is to be congratulated for his work in speeding up the activities of the Department of State in granting visas. But I wonder if the Senator will tell us whether the Department of State has reported on the number of refugees actually admitted to the United States.

Mr. LANGER. The report will disclose that the Department of State is responsible only for the issuing of visas. When a visa has been issued by Scott McLeod, his job is done. After that it is up to the Immigration and Naturalization Service.

If the distinguished Senator from Illinois is interested in knowing the number of admittances, I shall be glad to furnish that information to the Senate when I make my next report.

Because of the long delay after some of the visas had been issued, some of the persons who received them refused to come to the United States. It is astounding to learn of the number who have refused to come, chiefly from Germany and Austria, where economic conditions have become much improved. But that is not the fault of Scott McLeod or the Department of State. It is true that economic conditions abroad have changed.

Certainly a mighty fine job has been done in the issuance of the additional visas, as I have described.

Mr. DOUGLAS. Is it not true that only a very few thousand have actually come to the United States?

Mr. LANGER. That is true only as to those who are actual refugees, not as to relatives of persons who are already here. They have been coming to the United States. The latest figures I have show that some 22,000 or 23,000 have come.

Mr. KILGORE. Mr. President, will the Senator yield?

Mr. LANGER. I yield to the distinguished chairman of the Committee on the Judiciary.

Mr. KILGORE. A report to the Committee on Appropriations, which I intend to file today, discloses that as of May 20, 1955, 30,652 visas had been issued, and that 21,792 persons had entered the United States.

Mr. DOUGLAS. How many of those persons were relatives, and how many were refugees?

Mr. KILGORE. Probably between 17,000 and 18,000 were relatives.

Mr. DOUGLAS. Only about 3,000 or 4,000 were refugees.

Mr. LANGER. I want the Senator from Illinois to know that at the present time the American consuls are all on the job. They have been contacted by investigators from the Refugee Commission, and there has been a very substantial increase, percentagewise, in the number of visas issued to refugees.

Mr. DOUGLAS. I think the distinguished Senator from North Dakota and his colleagues deserve great credit in galvanizing a heretofore inoperative program into some degree of effect.

I think perhaps the votive offering of Mr. Corsi, which was laid upon the altar, may also have stimulated the Department of State into taking some action.

I am merely hoping that the facts about the relatively small numbers of refugees being admitted may be borne in mind. I think a great deal of improvement is still needed.

WASHITA RIVER BASIN RECLAMATION PROJECT, OKLAHOMA

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 367, Senate bill 180. I call the motion to the attention of the distinguished Senator from Oklahoma [Mr. KERR] and the distinguished Senator from New Mexico [Mr. ANDERSON].

The ACTING PRESIDENT pro tempore. The clerk will state the bill by title.

The CHIEF CLERK. A bill (S. 180) to authorize the Secretary of the Interior to construct, operate, and maintain the Washita River Basin reclamation project, Oklahoma.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill which had been reported from the Committee on Interior and Insular Affairs, with amendments, on page 2, line 13, after the numeral "2", to strike out:

In constructing, operating, and maintaining the Washita project, the Secretary shall allocate proper costs thereof under the following conditions:

(a) Allocations to flood control, recreation, and the preservation and propagation of fish and wildlife shall be nonreturnable.

(b) Allocations to municipal water supply, including domestic, manufacturing, and industrial uses, shall be repayable through contracts with municipal corporations. Such contracts shall be precedent to the commencement of construction of any project unit affecting the individual municipalities, and shall provide for repayment of construction costs in not to exceed 50 years from the dates water is first delivered, and payments of construction costs shall include interest on unamortized balances at a rate equal to the average rate paid by the United States on long-term loans outstanding during the period of the construction, except that estimates may be used for minor costs not incurred prior to delivery of water.

And insert in lieu thereof:

In constructing, operating, and maintaining the Washita project, the Secretary shall allocate proper costs thereof in accordance with the methods used in determining the allocations made on pages 68, 69, and 70, of House Document 219, 83d Congress, but with appropriate adjustments for changes in actual cost of construction, under the following conditions:

(a) Allocations to flood control, recreation, and the preservation and propagation of fish and wildlife shall be nonreturnable.

(b) Allocations to municipal water supply, including domestic, manufacturing, and industrial uses, shall be repayable through contracts with municipal corporations, or other organizations as defined by section 2, Reclamation Project Act of 1939 (53 Stat. 1187). Such contracts shall be precedent to the commencement of construction of any project unit affecting the individual municipalities, and shall provide for repayment of construction costs allocated to municipal water supply in not to exceed 50 years from the dates water is first delivered for that purpose, and payments of said construction costs shall include interest on unamortized balances of that allocation at a rate equal to the average rate (which rate shall be certified by the Secretary of the Treasury) paid by the United States on its marketable long-term loans outstanding on the date of this act.

On page 4, after line 17, to strike out:

Contracts with irrigation water users shall provide for repayment in accordance with reclamation laws (act of June 17, 1902; 32 Stat. 388, and acts amendatory thereof or supplementary thereto), excepting section 9 (e) of the Reclamation Project Act of 1939, within a period of 55 years as to each irrigation unit, from the date water is first delivered thereto.

And insert in lieu thereof:

Any contract entered into under section 9, subsection (d) of the Reclamation Project Act of 1939, for payment of those portions of the costs of constructing, operating, and maintaining the Washita project which are properly allocable to irrigation and which are assigned to be paid by the contracting organization shall provide for the repayment of the portion of the construction cost of the project assigned to any contract unit or, if the contract unit be divided into two or more blocks, to any such block over a period of not more than 55 years, exclusive of any permissible development period, or as near thereto as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within the period stated under average conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the organization to pay: *Provided,* That nothing in this section is intended to preclude the temporary furnishing of irrigation water under contracts appropriate for that purpose from Foss and Fort Cobb Reservoirs with or without the construction of specific irrigation works.

On page 6, after line 20, to strike out:

SEC. 6. There are hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, $37,429,000 to carry out the purposes of this act.

And insert in lieu thereof:

SEC. 6. There is hereby authorized to be appropriated for construction of the works authorized to be constructed by section 1 of this act the sum of $40,600,000 plus such additional amount, if any, as may be required by reason of changes in the costs of construction of the types involved in the Washita River Basin project as shown by engineering indexes. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of said works.

So as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior is authorized to construct, operate, and maintain the Washita River Basin reclamation project, Oklahoma, in accordance with the Federal reclamation laws (act of June 17, 1902, and acts amendatory thereof or supplementary thereto), except so far as those laws are inconsistent with this act, for the principal purposes of storing, regulating, and furnishing water for municipal, domestic, and industrial use, and for the irrigation of approximately 26,000 acres of land and of controlling floods and, as incidents to the foregoing for the additional purposes of regulating the flow of the Washita River, providing for the preservation and propagation of fish and wildlife, and of enhancing recreational opportunities. The Washita project shall consist of the following principal works: A reservoir at or near the Foss site on the main stem of the Washita River; a reservoir at or near the Fort Cobb site on Pond (Cobb) Creek; and canals, pipelines, and other conduits for furnishing water for municipal, domestic, and industrial use, and for irrigation.

SEC. 2. In constructing, operating, and maintaining the Washita project, the Secretary shall allocate proper costs thereof in accordance with the methods used in determining the allocations made on pages 68, 69, and 70, of House Document 219, 83d Congress, but with appropriate adjustments for changes in actual cost of construction, under the following conditions:

(a) Allocations to flood control, recreation, and the preservation and propagation of fish and wildlife shall be nonreturnable.

(b) Allocations to municipal water supply, including domestic, manufacturing, and industrial uses, shall be repayable through contracts with municipal corporations, or other organizations as defined by section 2, Reclamation Project Act of 1939 (53 Stat. 1187). Such contracts shall be precedent to the commencement of construction of any project unit affecting the individual municipalities, and shall provide for repayment of construction costs allocated to municipal water supply in not to exceed 50 years from the dates water is first delivered for that purpose, and payments of said construction costs shall include interest on unamortized balances of that allocation at a rate equal to the average rate (which rate shall be certified by the Secretary of the Treasury) paid by the United States on its marketable long-term loans outstanding on the date of this act: *Provided,* That such contracts shall provide that annual municipal repayments shall continue at the same rates until the costs of Foss and Fort Cobb Reservoirs allocated to irrigation are fully repaid: *Provided further,* That if irrigation works are constructed, as hereinafter provided, said annual repayment rates shall continue so long as the costs of irrigation works are unpaid.

(c) The authorization for construction of the irrigation works, exclusive of Foss and Fort Cobb Reservoirs, shall be limited, as to each reservoir, to a period of 10 years from the commencement of the delivery of municipal water from the reservoir on which the irrigation unit is dependent. Any contract entered into under section 9, subsection (d) of the Reclamation Project Act of 1939, for payment of those portions of the costs of constructing, operating, and maintaining the Washita project which are properly allocable to irrigation and which are assigned to be paid by the contracting organization shall provide for the repayment of the portion of the construction cost of the project assigned to any contract unit or, if the contract unit be divided into two or more blocks, to any such block over a period of not more than 55 years, exclusive of any permissible development period, or as near thereto as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within the period stated under average conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the organization to pay: *Provided,* That nothing in this section is intended to preclude the temporary furnishing of irrigation water under contracts appropriate for that purpose from Foss and Fort Cobb Reservoirs with or without the construction of specific irrigation works.

SEC. 3. Construction of the Washita project herein authorized may be undertaken in such units or stages as in the opinion of the Secretary best serves the project requirements and the relative needs for water of the several prospective users. Repayment contracts negotiated in connection with each unit or stage of construction shall be subject to the terms and conditions of section 2 of this act.

SEC. 4. The Secretary may, upon conclusion of a suitable agreement with any qualified agency of the State of Oklahoma or a political subdivision thereof for assumption of the administration, operation, and maintenance thereof at the earliest practicable date, construct or permit the construction of public park and recreational facilities on lands owned by the United States adjacent to the reservoirs of the Washita project, when such use is determined by the Secretary not to be contrary to the public interest, all under such rules and regulations as the Secretary may prescribe. No recreational use of any area to which this section applies shall be permitted which is inconsistent with the laws of the State of Oklahoma for the protection of fish and game. The costs of constructing, operating, and maintaining the facilities authorized by this section shall not be charged to or become a part of the costs of the Washita River Basin project.

SEC. 5. Expenditures for Foss and Fort Cobb Reservoirs may be made without regard to the soil survey and land classification requirements of the Interior Department Appropriation Act, 1954 (43 U. S. C. 390a).

SEC. 6. There is hereby authorized to be appropriated for construction of the works authorized to be constructed by section 1 of this act the sum of $40,600,000 plus such additional amount, if any, as may be required by reason of changes in the costs of construction of the types involved in the Washita River Basin project as shown by engineering indices. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of said works.

Mr. ANDERSON. Mr. President, Senate bill 180 authorizes again the construction of the Washita River Basin reclamation project, in Oklahoma. This project was approved by the Senate at the last session, when a similar bill was passed unanimously. On that occasion the bill had been reported unanimously by the Senate Committee on Interior and Insular Affairs. It is again reported unanimously by the Committee on Interior and Insular Affairs.

The bill provides for the establishment of a series of reservoirs in Oklahoma, from which Oklahoma communities can obtain very much needed municipal water supplies, for which they will pay substantial sums to the Treasury of the United States.

In addition, the project will provide flood control along the river and will protect a very rich farming section, which has been frequently flooded in the past few years.

The distinguished senior Senator from Oklahoma [Mr. KERR] was very much interested in the bill a year ago, and he is again a sponsor of it. Naturally, he may wish to make a statement on the bill.

I merely wish to say that the Subcommittee on Irrigation and Reclamation studied the matter very carefully this year, as it did previously. It has again made a unanimous report to the full committee, and the Committee on Interior and Insular Affairs has made a unanimous report to the Senate. We hope the bill will be passed.

Mr. KERR. Mr. President, I wish to thank the distinguished Senator from New Mexico and the other members of the subcommittee of which he is the chairman, and also the great committee he represents, for making the report.

The pending bill contains substantially the same language as was carried by the bill which passed the Senate unanimously a year ago. It is sponsored by my colleague, the distinguished junior Senator from Oklahoma [Mr. MONRONEY], and myself.

It has to do with meeting one of the most pressing needs in the State of Oklahoma for flood control, for the irrigation of thousands of acres of very fertile land, and, in addition thereto, for meeting the requirements of municipal water for about 12 or 14 of the finest communities in southern Oklahoma.

Those communities have entered into acceptable contracts with the Department to purchase substantial quantities of water. The revenue derived therefrom will make it possible to reimburse the Government for a substantial portion of its investment in the project.

In fact, in order to make the project more feasible, under the standards prescribed by the committee and the Congress, these areas, which have a population of some 50,000 people in the various communities, have agreed to go beyond the requirements relating to reimbursement for municipal water, and have agreed to make reimbursement over and above the usual amount, in order to add to the revenue that will come from the users of water for irrigation.

I hope the Senate will, as it did last year, give unanimous approval to the bill.

The PRESIDING OFFICER (Mr. MCNAMARA in the chair). The question is on agreeing to the committee amendments.

The amendments were agreed to.

The PRESIDING OFFICER. If there be no further amendment to be offered, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LEASING OF RESTRICTED INDIAN LANDS IN ARIZONA

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 379, Senate bill 34, and I call the attention of the two distinguished Senators from Arizona to the motion I have just made.

The PRESIDING OFFICER. The Secretary will state the bill by title.

The LEGISLATIVE CLERK. A bill (S. 34) providing for the leasing by Indian owners of restricted Indian lands in the State of Arizona for certain purposes, reported from the Committee on Interior and Insular Affairs.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill which had been reported from the Committee on Interior and Insural Affairs, with an amendment, to strike out all after the enacting clause and insert:

That any restricted Indian lands, whether tribally or individually owned, may be leased by the Indian owners, with the approval of the Secretary of the Interior, for public, religious, educational, recreational, residential, or business purposes, including the development or utilization of natural resources in connection with operations under such leases, and for those farming purposes which require the making of a substantial investment in the improvement of the land for the production of specialized crops as determined by said Secretary. All leases so granted shall be for a term of not to exceed 25 years, but leases for public, religious, educational, recreational, residential, or business purposes with the consent of both parties may include provisions authorizing their renewal for an additional term of not to exceed 25 years, and all leases and renewals shall be made under such terms and regulations as may be prescribed by the Secretary of the Interior.

SEC. 2. Restricted lands of deceased Indians may be leased under this act, for the benefit of their heirs or devisees, in the circumstances and by the persons prescribed in the act of July 8, 1940 (54 Stat. 745; 25 U. S. C., 1946 edition, sec. 380).

SEC. 3. The act of March 3, 1909 (35 Stat. 783; 25 U. S. C. 396) is amended by inserting before the period at the end thereof the following proviso: ": *Provided*, That if the said allottee is deceased and the heirs to or devisees of any interest in the allotment have not been determined, or, if determined, some or all of them cannot be located, the Secretary of the Interior may offer for sale leases for mining purposes to the highest responsible qualified bidder, at public auction, or on sealed bids, after notice and advertisement, upon such terms and conditions as the Secretary of the Interior may prescribe. The Secretary of the Interior shall have the right to reject all bids whenever in his judgment the interests of the Indians will be served by so doing, and to readvertise such lease for sale."

SEC. 4. No rent or other consideration for the use of land leased under this act shall be paid or collected more than 1 year in advance, unless so provided in the lease.

SEC. 5. The Secretary of the Interior shall approve no lease pursuant to this act that contains any provision that will prevent or delay a termination of Federal trust responsibilities with respect to the land during the term of the lease.

SEC. 6. Nothing contained in this act shall be construed to repeal any authority to lease restricted Indian lands conferred by or pursuant to any other provisions of law.

Mr. ANDERSON. Mr. President, Senate bill 34 was originally introduced by the Senator from Arizona [Mr. GOLDWATER]. It authorizes Indians in Arizona to lease their lands for 25 years for various purposes. I think the question arose originally because of an attempt by a tribe to lease their lands to a municipality for an airport site. They could not do so because present restrictions allow Indians to lease their lands for only 5 years, as a general rule. However, a few tribes, such as the Navaho and Hopi Indians in New Mexico and Arizona have authority to make long-term business leases. It has worked extremely well, and it is to the great advantage of their needs. Therefore the committee felt the long term leasing program should be expanded to other tribes in the United States.

The chairman of the Committee on Interior and Insular Affairs, the Senator from Montana [Mr. MURRAY] introduced a bill making the application broader than that proposed by the Senator from Arizona. We have therefore taken the bill of the Senator from Arizona and broadened it to include other areas, so that Indians owning lands, for instance, around lakes may, when they had an opportunity to do so, lease land for recreation purposes, for example. The bill will permit Indians to make leases for a longer period than 5 years.

The bill has been endorsed by Indian organizations throughout the country. We think it proposes sound legislation. The bill has been very carefully considered, and we think it should pass.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. GOLDWATER. Mr. President, I ask unanimous consent to have printed at this point in the RECORD an explanation of the bill, as it appears on pages 2 and 3 of the committee report.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

EXPLANATION OF THE BILL

S. 34, as introduced, would permit Indian owners of restricted Indian lands in the State of Arizona to lease their lands for a period of 25 years for certain purposes as described in the amended title of this bill. A similar bill, S. 621, would permit Indians in all States to make such leases.

The Committee on Interior and Insular Affairs believe that such uniformity of leasing would be to the best interest of the Indians. Therefore, by incorporating substitute language, S. 34 has been broadened to make it applicable to Indians generally.

The bill, as reported, would permit the Indian owners of restricted Indian lands in the United States to lease their lands for a period of 25 years with the approval of the Secretary, for public, religious, educational, recreational, residential, or business purposes, including the development or utilization of natural resources in connection with operations under such leases. In addition, these lands could be leased for farming purposes which require the making of substantial investment in the improvement of the land for the production of specialized crops. The bill in section 2 would also authorize leasing of restricted lands of deceased Indians for the benefit of their heirs or devisees.

In general, the laws now governing the leasing of restricted Indian lands preclude leasing for periods of longer than 5 years. The absence of authority for long-term leases discriminates against Indians who own restricted lands that are suitable for the location of business establishments, residential subdivisions, summer homes, airports, or for other purposes that require a substantial outlay of capital by the prospective lessee. It also penalizes Indian owners of raw but potentially valuable farmlands on which the cost of subjugation is too great for the Indian himself to finance. In such cases, prospective lessees are willing to undertake these expensive improvements only if guaranteed tenure by a long-term lease.

Because of existing limitations upon the duration of leases, many Indian lands which could be profitably utilized under long-term leases are idle, and the Indians are deprived of much needed income. Other lands that are leased for shorter periods would bring much higher rentals to the Indians if the lands could be leased on a long-term basis. Enactment of S. 34 will remove these unfair restrictions.

Section 3 of S. 34 amends the act of March 3, 1909 (35 Stat. 783; 25 U. S. C. 396), by adding a proviso which authorizes the Secretary of the Interior to lease for mining purposes any lands allotted to Indians in severalty, except allotments to members of the Five Civilized Tribes and Osage Indians in Oklahoma, when the allottee is deceased and the heirs to or devisees of any interest in the allotment either have not been determined or cannot be located. The leases must be based on competitive bidding.

There have been a number of instances in recent years, particularly in areas of new and speculative oil and gas developments in the Indian country, where very substantial bonuses have been paid for oil and gas leases of allotted lands. These bonuses have not

been available for leases of allotted lands where the heirs or devisees of the allotment or of an interest therein have not been determined. This situation is not in the best interest either of the known owners or the undetermined or unlocated owners. Enactment of S. 34 will minimize the present loss of income both to the heirs to, and devisees of, interests in decedents' estates when they are ultimately determined or located, and also to the known owners of interest in the estates. This amendment has the approval of the Secretary of the Interior.

Section 4 provides that no rent or other consideration for the use of land leased under S. 34 shall be paid or collected more than 1 year in advance, unless provided for in the lease.

Section 5 provides that the Secretary of the Interior shall approve no lease under the authority of this act that contains any provision that will prevent or delay a termination of Federal trust responsibilities with respect to the land during the term of the lease. In view of the long-term objective of removing restrictions from Indian lands as rapidly as the Indian owners become able to handle their own affairs without assistance from the Federal Government, no lease that extends for a period of 25 years with an option to renew for an additional 25 years should contain provisions that are inconsistent with this long-term objective.

Section 6 provides that nothing contained in the act shall repeal any authority to lease restricted Indian lands conferred by any other provision of law.

The committee unanimously recommends the passage of S. 34.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 34) was ordered to be engrossed for a third reading, read the third time, and passed.

HEARINGS BY SUBCOMMITTEE ON JUVENILE DELINQUENCY

Mr. LANGER. Mr. President, will the Senator yield?

Mr. ANDERSON. I yield to the Senator from North Dakota.

Mr. LANGER. I should like to bring to the attention of the Senate the fact that the Subcommittee on Juvenile Delinquency just completed hearings, held in New Mexico and Arizona, which included testimony from the Attorney General of New Mexico and the Governor of Arizona, as well as other witnesses, among them the head of the health department. The committee made a recommendation that there be an appropriation of $200 million. There will be a hearing to listen to the testimony of Mr. Emmons, and I hope the Senators from Arizona and New Mexico can attend.

Mr. ANDERSON. Mr. President, I not only shall be happy to attend, but I wish to commend the Senator from North Dakota for his continued interest in the Indians of the United States.

JOHN P. PETERS AGAINST OVETA CULP HOBBY ET AL.

Mr. LANGER. Mr. President, I recently had the pleasure of addressing the Emergency Civil Liberties Committee at Canandaigua, N. Y. While there I was handed a brief which had been prepared by the Emergency Civil Liberties Committee amicus curiae in a case pending in the Supreme Court of the United States, entitled, "John Peters, petitioner, against Oveta Culp Hobby et al., respondents."

After reading the brief I have come to the conclusion that it ought to be brought to the attention of every Senator. I said I would bring it to the attention of the Senate, and I therefore ask unanimous consent that the brief be printed in the RECORD at this point as a part of my remarks.

There being no objection, the brief was ordered to be printed in the RECORD, as follows:

BRIEF OF THE EMERGENCY CIVIL LIBERTIES COMMITTEE, AS AMICUS CURIAE

It is evident that the issues raised in this case are of profound importance. Directly, they affect the rights of employment of a part-time, unclassified, intermittent employee of the United States. The implications of any decision of the Court, however, may have far-reaching repercussions on the administration of the loyalty program in all of its aspects.

It would be difficult to overstate the extent of that loyalty program. Every man, woman, and child who wishes a passport must satisfy an administrative official in the passport office of his or her loyalty. Every person who works in a defense facility must pass a loyalty test administered by the Defense Department. Every longshoreman and every member of the merchant marine must meet the loyalty tests imposed by the Coast Guard. Every member of the Armed Forces must comply with the loyalty standards imposed by the Army, Navy, and Air Force, and, of course, every employee of the United States Government must meet the requirements which were imposed on the petitioner in this case and which he failed to meet.

Nor is this all. In most, if not all, States employees of State, county, and municipal governments are subject to loyalty checks by a variety of local governing bodies. Because our children are said to be particularly susceptible to subversive influences, schoolteachers at all levels, from kindergarten to graduate schools, must undergo the same scrutiny of their organizational affiliations and activities, past and present, administered by local boards of education.

Recently in the District of Columbia a license to deal in second-hand furniture was denied on grounds of possible disloyalty of the applicant, and we are told that in Indiana wrestlers and boxers are subject to a loyalty test by the local authorities before they may perform before their public.

It is not particularly surprising that many private employers, notably in institutions of higher learning, have imposed similar tests.

The end is not yet in sight. The Federal Communications Commission has before it a proposal to screen all applicants for and holders of radio operator's licenses and permits, said to number almost a million persons. The American Bar Association proposes a similar test for attorneys. The list could be expanded almost indefinitely.

This dismal picture raises two questions, both of which go to the heart of any democratic system of government. One of these questions is substantive. The imposition of loyalty tests on large groups of persons, aggregating, perhaps, a majority of the adult working population of the United States, is basically contrary to the fundamentals of a free political system. The standards of loyalty vary widely from one administrative agency to another and often from one case to another within the same agency. The concept of defense facility is an elastic one. As many serious commentators have pointed out, the sum total of all of this has been to destroy free discussion of basic political and economic issues, and without such discussion democracy cannot exist.

The other question raised is procedural, and it is the procedural question that must be decided by the Court in this case. As has frequently been noted, our liberties are, in large part, made up of the strict observances of the procedural standards of due process prescribed by the Constitution. None of those standards is observed in the administration of the loyalty program either by the Federal Government, by State or local governments, nor by any administrative agencies.

The record in this case, shocking as it is, is typical of the procedures through which many thousands of our citizens have lost their means of livelihood, and been stamped as disloyal in the minds of their fellow Americans. The respondents here seek to answer all of this by the citation of such cases as *Shurtleff* v. *U. S.* (189 U. S. 311), *Eberlein* v. *U. S.* (257 U. S. 82), and a host of similar cases involving for the most part the removal of Government employees for inefficiency or misconduct. The citation of those cases reveals a lack of appreciation of the magnitude of the problem which confronts this Court and the people of the United States.

Basically the issue here is not the right of the petitioner to maintain his employment, but rather the right of the people of the United States to maintain their democracy. When dismissals from Government employment are based on the violation of civil-service rules relating to the proper performance of duty, it may be that no constitutional issue is raised. When dismissals are based on regulations which impinge closely on the constitutional right of all persons who live in a democracy to think and talk, even though those thoughts and words may be characterized by some administrative official as disloyal, a problem of entirely different nature is raised.

It is evident from even a cursory examination of the record that none of the requirements of due process were met here, and, indeed, respondent does not seriously claim otherwise. Fundamental to any concept of due process is that decisions shall be made on the basis of evidence contained in a record and not on the basis of secret information known only to the tribunal which decides the case. (Here even the tribunal deciding the case did not know the identity of the witnesses whose word it accepted.) This is so elementary that it would seem quite unnecessary to argue it to this Court. This requirement is not a mere technicality but goes to the heart of democratic procedures as they are understood in this country.

An opportunity to know the evidence offered by the opposition and to cross-examine witnesses produced by it is, as all know, not a foolproof method of arriving at the truth, but it is the best method we have been able to devise in several centuries of Anglo-American judicial procedure. It is a method without which no decision can be made by an administrative officer under our system of government.

Superimposed on the evil technique of determining issues on the basis of evidence not disclosed to the parties, is the widespread use of informers by the Department of Justice and by other administrative local governing bodies which have aped the procedures of the Department of Justice. It is notorious that informers historically have been an unreliable breed, and our own recent history with informers is but the duplication of the history of many centuries of human experience. The recent revelations of Harvey Matusow, the recent recantations in the Lamb case now pending before the Federal Communications Commission, are but the most dramatic illustrations of the unreliability of informer testimony. None

of this is new, although perhaps it has only been recently brought to the attention of the public. Informed commentators for years have been writing and speaking on the unreliability of professional informers such as Paul Crouch, Louis Budenz, Manning Johnson, Leonard Patterson, and a host of others.

We, of course, have no possible way of determining the nature of the so-called evidence on the basis of which the petitioner here was discharged. Perhaps the witness or witnesses who informed against him were Matusow and Crouch. Perhaps they were persons of similar occupation, still on the payroll of the FBI. Perhaps they were full-time FBI informers. Perhaps they were neighbors, volunteers, or private enemies who took this opportunity to demonstrate either their zeal to protect our country or their personal dislike of the petitioner. Actually, the character of the informer makes very little difference. Without an opportunity to confront and cross-examine witnesses, not even a partial guaranty can be offered that decisions will be just.

The respondent seeks to justify all of these strange and basically un-American procedures, including the nondisclosure of evidence, on the ground that they are required by national security. Apparently respondent believes that it is better to punish a thousand innocent persons than to permit one disloyal employee to maintain a job in the Federal Government, even one as remote from our defense program as Special Consultant to the Public Health Service in the Department of Health, Education, and Welfare. This is a premise which no American, brought up in the traditions of our democracy, can possibly accept.

We agree wholeheartedly that at issue here is a question of national security. The evil which threatens our security, however, is precisely the evil against which the petitioner complains in this case. It is the evil of condemnation without trial. It is the evil of the destruction of the right of Americans to think and talk as they please. This evil is much more subversive and threatens our national existence much more seriously than any subversive conduct within the power of a special consultant to the Public Health Service, or, for that matter, a teacher in a public school or an employee in the Department of Printing and Engraving.

Our Nation has experienced about 8 years of loyalty investigations. In recent months there has been an increasing public demand for a reevaluation of the entire process as it has become more and more clear that our fundamental liberties are endangered by an ever widening circle of purges. It is perhaps fortunate that this case comes before the Court at this time when the full impact of the loyalty program on our constitutional rights has become apparent.

Respectfully submitted.

LEONARD D. BOUDIN,
VICTOR RABINOWITZ,
Attorneys for Emergency Civil Liberties Committee Amicus Curiae.

SHEINER VERSUS STATE OF FLORIDA

Mr. LANGER. Mr. President, I am also interested in the case of Sheiner versus State of Florida. In my opinion, that case involves the fundamental question of whether a lawyer should be disbarred merely because he invokes the fifth amendment.

I have in my hand the text of the briefs amici curiae of the National Lawyers Guild and the American Bar Association in that case. I ask unanimous consent that the briefs be printed in the RECORD at this point as a part of my remarks.

There being no objection, the briefs were ordered to be printed in the RECORD, as follows:

SHEINER VERSUS STATE OF FLORIDA—BRIEF OF THE NATIONAL LAWYERS GUILD, AMICUS CURIAE

INTRODUCTORY STATEMENT

The National Lawyers Guild is a national bar association with members in all sections of the United States. Its purposes, as provided in its constitution, include the protection of the civil rights and liberties of all the people and the promotion of justice in the administration of law.

The attainment of these objectives make it imperative, in the view of the National Lawyers Guild, that the independence of the bar be maintained intact. For the liberties of the citizenry as a whole can be preserved only if lawyers are free to defend them. An intimidated bar, a bar coerced into political conformity, a bar subjected to harrying inquisitions will lack the courage and independence to fulfill one of its prime historical functions. For these reasons the National Lawyers Guild has always stanchly defended the bar and its members against such invasions. At its 1950 convention, in a resolution on the lawyer's right and duty of advocacy, the guild stated:

"The National Lawyers Guild is opposed to political tests for lawyers and for admission to the bar, as an interference with the fundamental rights of lawyers, as of all citizens, to belong to any political party or to hold any political, social, or economic views."

And at its most recent convention, the guild, noting "further efforts, in the form of * * * special loyalty oaths * * * to frighten members of the legal profession into abrogating their traditional role as defenders of liberty," pledged "continued opposition to all loyalty oath proposals or similar requirements of political conformity for lawyers and for applicants seeking admission to the bar."

The present case raises another issue of general importance: Are the constitutional rights of a citizen to be accorded less weight when that citizen happens to be a lawyer? As the discussion herein indicates, the appellant in this proceeding, in response to the questioning of the court below, invoked his rights under sections 12, 13, and 15 of the Florida declaration of rights and the first and fifth amendments of the Constitution of the United States. Because of his reliance on his constitutional rights—and the record permits the assertion of no other reason for the action of the court below—he was summarily disbarred. The theory implicit in this action is that the appellant could retain his status as a member of the bar only by relinquishing these rights.

This proceeding represents the sole instance of its kind known to the National Lawyers Guild. As is shown in the argument below, the disbarment action of the court is not only without precedent, but it contravenes well-established authority. And, in our opinion, this action and the theory underlying it constitute so grave an infringement on rights possessed by attorneys in common with the citizenry as a whole that they must give rise to serious reflection and grave misgivings.

One more aspect of the decision below must be observed. It has been reportedly announced by the State Attorney who prosecuted this case that he plans to investigate other attorneys in connection with the advice supposedly given by them to clients under investigation for Communist affiliations (The Pensacola Journal, Dec. 1, 1954, pp. 1, 19). The inquisition is thus apparently to be expanded, not only to additional members of the bar as individuals, but to the legal advice which they rendered in cases which may well raise basic constitutional principles similar in tenor to those involved here. It is difficult to envision a more direct and ruthless blow to the essence of the lawyer-client relationship than would be inflicted by such an "investigation." If the advice of a lawyer is to be made the basis for investigating the lawyer, with no restraint by the court, then the rights of both lawyers and their clients among members of the public are indeed in jeopardy.

The present appeal, therefore, transcends in significance the issue of whether the court below committed error. This court can reaffirm the sanctity of the lawyer's constitutional rights and his ability to seek their protection without forfeiting his professional life, or it can chart a different course, curtailing his rights by penalizing him for invoking them, and jeopardizing also the rights of clients and the public.

Because the issue before the court is important to the maintenance of fundamental constitutional principles and because it uniquely affects the freedom and independence of the bar as a public profession as well as of its individual members, the National Lawyers Guild, with leave of the court, respectfully submits this brief as amicus curiae.

HISTORY OF THE CASE

There are discussed here certain aspects of the facts of the case, whose full history is set forth in the brief of appellant.

The evidence before the court is unique, in that it consists not of an affirmative presentation of proof but of a complete absence of proof. Apart from the testimony of one Kenney, which was so inconclusive and insignificant that the court below made no reference to it in either its written or oral opinion, the only testimony was that of the appellant himself, who was called as a witness by the State Attorney in support of the motion for disbarment. After the latter established appellant's status as a member of the Florida bar, he asked him two questions concerning his membership in the Communist Party. Upon appellant's refusal to answer these under the rights guaranteed to him by the Federal and State Constitutions, he was immediately disbarred. This constituted all the testimony before the court (R. 121–151).

Nor was any matter of a substantive character added by the exhibits attached to the moving papers. These exhibits were:

1. A transcript of testimony before a subcommittee of the Committee on the Judiciary of the United States Senate under the chairmanship of Senator EASTLAND. This transcript could establish only that on a prior occasion the appellant claimed several constitutional privileges, including the privilege against self-incrimination, in response to questions concerning his associations with various organizations, including the Communist Party. In addition, the Eastland transcript contains testimony by one Paul Crouch concerning an alleged statement to him by appellant at some time in the past that he was a member of the Communist Party. Crouch's testimony before the subcommittee was not subject to cross-examination and could in no sense be considered testimony in the disbarment proceedings. (For comments on the credibility of this same Paul Crouch, see newspaper columns of Joseph and Stewart Alsop, New York Herald Tribune, April 16 and 19, May 19, July 4 and 11, 1954; see also column of Hendrik J. Berns, Miami Herald, July 27, 1954, p. 2–A, col. 1; compare press reports that the Department of Justice was investigating the Alsop charges against Crouch, Miami Herald, May 28, 1954, p. 10–A, col. 5.) It is also significant that the record shows that Crouch was present at the disbarment proceedings, but was never called to testify (R. 123).

2. The other document annexed to the moving papers is a transcript of the appellant's testimony before a grand jury, which again merely shows the claiming of

constitutional privileges similar to those asserted before the Eastland subcommittee.

This was the entire record before the court below. It was conceded in its opinion that appellant was acting within his rights in refusing to testify (R. 119).

It is apparent from this statement of facts as well as from the opinion below that the primary reason for the appellant's disbarment was his invocation of the admitted right not to be a witness against himself. He was thus punished by loss of his profession for invoking this right, one of profound historical meaning and of great present significance.

QUESTIONS INVOLVED

I. Could appellant be validly disbarred for invoking the right not to be a witness against himself?

A. May unfavorable inferences be drawn from an exercise of the privilege against self-incrimination?

B. May an attorney be disbarred because he invoked the privilege against self-incrimination?

C. May the right of an attorney to claim freedom from self-incrimination be avoided by terming his status at the bar a revocable "privilege"?

D. Did the presumption made below from appellant's assertion of his privilege, violate due process?

The court below answered question I and subquestions A, B, and C in the affirmative and subquestion D in the negative by disbarring the appellant upon his invocation of his right not to be a witness against himself (R. 149).

II. May an attorney be disciplined by reason of his refusal to answer questions concerning membership in the Communist Party upon an assertion of his rights under the first amendment to the Constitution of the United States and sections 13 and 15 of the Florida Declaration of Rights?

A. May personal guilt be attributed to an attorney solely by reason of membership in the Communist Party?

B. Do an attorney's beliefs and affiliations bear a relationship to his fitness as an attorney, so that his refusal to testify as to them warrants his disbarment?

C. Does the denial of a lawyer's constitutional rights impair the freedom of the bar and threaten the liberties of the people?

The court below answered question II and subquestions A and B in the affirmative and subquestion C in the negative by overruling and denying appellant's demurrer (R. 72) and by its opinion and order of disbarment (R. 103–120, 149).

ARGUMENT

Question 1

"Could appellant be validly disbarred for invoking the right not to be a witness against himself?"

The transcendent importance of the right of the individual not to be required to testify against himself and the vital necessity of the preservation of this right intact were recently reaffirmed by this court in *Boynton* v. *State* (75 So. 2d 211, 215-216 (1954)). In that case Mr. Justice Terrell said:

"The privilege against self-incrimination is one of the great landmarks in man's struggle to make himself civilized. It is the handmaid of the abolition of torture and has its roots in 12th century legal thinking. Its fundamental thesis is that you cannot extract evidence from one charged with a crime on which to convict him. It is contrary to every principle of legal philosophy to coerce one to reveal his guilt. In *Brown* v. *Walker* (161 U. S. 591 (1896)) the Court pointed out that the rule against self-incrimination is the result of a long struggle between the opposing forces of the spirit of individual liberty on the one hand and the collective power of the State on the other."

In *State ex rel. Mitchell* v. *Kelly* (71 So. 2d 887, 889 (Fla. 1954), this court referred to the ancient roots of the privilege and to the fact that even before the end of the 17th century none of the courts of England denied the rule that no man should be compelled to accuse himself.

"This privilege," it held, "is a sacred part of the Federal Constitution and of the constitution of every State except Iowa and New Jersey."

This historical privilege has been zealously guarded by the courts of Florida as well as by the Supreme Court of the United States and the courts of many other States of our Union. *State ex rel. Feldman* v. *Kelly* (76 So. 2d 798 (Fla., 1954)); *Florida State Board of Architecture* v. *Seymour* (62 So. 2d 1 (Fla. 1952)); *State ex rel. Byer* v. *Willard* (54 So. 2d 179, 181 (Fla., 1951)); *State ex rel. Benemovsky* v. *Sullivan* (37 So. 2d 907 (Fla., 1948)); *Blau* v. *United States* (340 U. S. 159 (1950)); *Counselman* v. *Hitchcock* (142 U. S. 547 (1892)); *Boyd* v. *United States* (116 U. S. 616 (1886)); *Temple* v. *The Commonwealth* (75 Va. 892 (1881)); *Commonwealth* v. *Gibbs* (4 Dall. 253 (Pa. Sup. Ct., 1802)); *People ex rel. Taylor* v. *Forbes* (143 N. Y. 219, 38 N. E. 303 (1894)).

Historically the fifth amendment and its counterpart in section 12 of the Declaration of Rights of the Constitution of the State of Florida have been directed at precisely the types of abuses which the proceedings in the court below permitted and upon which it based its conclusions. A basic objective of the privilege against self-incrimination was the prevention of the specific type of inquisition of a hapless respondent as was here engaged in. As Dean Griswold said in the article referred to with approval in the *Boynton* case, *supra* (75 So. 2d at 215):

"We have through the course of history developed a considerable feeling of the dignity and intrinsic importance of the individual man. Even the evil man is a human being.

"If a man has done wrong he should be punished. But the evidence against him should be produced, and evaluated by a proper court in a fair trial. Neither torture nor an oath nor the threat of punishment such as imprisonment for contempt"—and, we may add, disbarment from a profession—"should be used to compel him to provide the evidence to accuse or convict himself * * *. I believe that is a good standard, and that it is an expression of one of the fundamental decencies in the relation we have developed between government and man." Griswold, The Fifth Amendment: An Old and Good Friend (40 A. B. A. J. 502, 503 (1954).[1]

In the absence of these standards, legal inquiries "degenerate[d] into a merely unlawful process of poking about in the speculation of finding something chargeable." (8 Wigmore on Evidence (3d ed., 1940) 284.)

The early history of the privilege was intimately tied to the right of political and religious freedom. Dean Griswold's article portrays the political inquisitions of the Court of Star Chamber in the 17th century and the attempted intrusion of the colonial Governor of Pennsylvania on the freedom of the press in the 18th century. It describes how these and similar efforts to restrict individual liberties were met and ultimately defeated by the assertion of the right against self-incrimination. (40 A. B. A. J. at 502–503.) See also Morgan, the Privilege Against Self-Incrimination (34 Minn. L. Rev. 1, 2 ff. (1949).)

[1] This article and two others now appear in a volume by Dean Griswold, entitled "The Fifth Amendment Today" (Harvard University Press, 1955). We are taking the liberty of supplying copies to the court.

These facts make it all the more important that the privilege against self-incrimination, when invoked in a political context such as was the case here, be given especially liberal construction, in accordance with the entire history of the privilege. (*State ex rel. Mitchell* v. *Kelly, supra; State ex rel. Byer* v. *Willard, supra; Counselman* v. *Hitchcock, supra.*)

A. May Unfavorable Inferences Be Drawn From an Exercise of the Privilege Against Self-Incrimination?

The constitutional right not to be a witness against oneself has as an essential component the well-recognized doctrine that the privilege is a protection to the innocent as well as the guilty. *Twining* v. *New Jersey* (211 U. S. 78, 91 (1908)); *Spector* v. *United States* (193 F. 2d 1002 (C. A. 9, 1952)). Indeed, when invoked by those whose "offenses" consisted of no more than their espousal of unpopular or unorthodox political or religious views, the privilege developed historically to protect not so much the guilty as those innocent of overt criminal acts.

In *Boyd* v. *United States, supra,* Mr. Justice Bradley quoted from the opinion of Lord Camden in *Entick* v. *Carrington* (19 Howell's St. Tr. 1029 (1765)), an opinion which he notes was a "monument of English freedom" and which our American statesmen during the Revolutionary period considered as "the true and ultimate expression of constitutional law" (116 U. S. 626). Lord Camden is quoted as follows (116 U. S. at 629):

"It is very certain that the law obligeth no man to accuse himself; because the necessary means of compelling self-accusation, falling upon the innocent as well as the guilty, would be both cruel and unjust."

If the constitutional privilege is truly to be a protection for the innocent as well as the guilty, it must follow that no unfavorable inferences can be drawn from a proper claim of the privilege. This, indeed, is what the cases hold.

Perhaps the classical case in this regard is *Burdick* v. *United States* (236 U. S. 79, 94 (1915)). Replying to the argument that Burdick, who had refused a pardon because of the imputation of guilt which it carried, could not then exercise his privilege not to be a witness against himself, the court said:

"If it be objected that the sensitiveness of Burdick was extreme because his refusal to answer was itself an implication of crime, we answer, not necessarily in fact, not at all in theory of law. It supposed only a possibility of a charge of crime and interposed protection against the charge, and, reaching beyond it, against furnishing what might be urged or used as evidence to support it."

This doctrine was given explicit expression in *United States ex rel. Belfrage* v. *Shaughnessy* (212 F. 2d 128, 129 (C. A. 2, 1954)). In that case an alien had invoked his constitutional privilege to refuse to answer questions similar in character to those asked of appellant in the case at bar. Nevertheless the court held that—

"We find no rational basis for an inference that if admitted to bail pending the outcome of the deportation proceedings there was substantial danger that he would abscond or engage in the interim in activities inimical to the public welfare. His mere refusal to answer might have been motivated by a dislike of the resulting publicity or a fear that his answers, by misconstruction or otherwise, might result in an unfounded prosecution against him on some criminal charge, as for instance a prosecution under the Smith Act, * * *. Perhaps it may have stemmed from reluctance to implicate, or disturb the privacy of others.

"But whatever the underlying motivation, an invocation of the fifth amendment is no ground at all for an inference of guilt or of criminal proclivities. The privilege created by the amendment 'is for the innocent as well as the guilty and no inference

can be drawn against the person claiming it that he fears that he is "engaged in doing something forbidden by Federal law." ' *Spector* v. *United States* (9 Cir., 193 F. 2d 1002 at page 1006)."

B. May an Attorney Be Disbarred Because He Invoked the Privilege Against Self-Incrimination?

Recognizing the force inherent in the constitutional privilege against self-incrimination, a long line of cases has uniformly held that exercise of the privilege may not form the basis for removal from a profession, and specifically from the profession of an attorney and counselor-at-law.

Perhaps the most clear-cut expression of this view is expressed in *Florida State Board of Architecture* v. *Seymour* (62 So. 2d 1 (Fla. 1952)). In that case an architect had testified before a grand jury and in a trial of certain others, pursuant to a statutory grant of immunity in lieu of the privilege against self-incrimination. Based upon his testimony, proceedings were instituted to revoke his certificate on the charge of bribery. On his application the proceedings were enjoined, and the injunction was affirmed by this court on the ground that the immunity statute protected not only against criminal prosecution but against any form of penalty, including the denial of the right to practice a licensed profession. This followed, the court held, because the immunity was coextensive with the privilege. The underlying theory, of course, was that the exercise of the privilege could not justify deprivation of the right to practice a profession.

Similarly, in *Matter of Grae* (282 N. Y. 428 26 N. E. 2d 963 (1940)), the highest court of New York reversed the suspension of an attorney from the practice of law, which had been based upon his claim of the privilege and his refusal to waive immunity at an inquiry into ambulance chasing. The court found a reasonable ground for the attorney's belief that his professional acts might well subject him to criminal prosecution and therefore held that he had been justified in asserting the privilege. The court then stated as follows (282 N. Y. at 434–435, 26 N. E. 2d at 966–967):

"The privilege against self-incrimination is a constitutional guaranty of a fundamental personal right. Long regarded as a safeguard of civil liberty it was firmly imbedded in the law of England and by the fifth amendment to the Federal Constitution became a basic principle of American constitutional law. 'It is a barrier interposed between the individual and the power of the Government, a barrier interposed by the sovereign people of the State; and neither legislators nor judges are free to overleap it.' (Matter of Doyle, 257 N. Y. 244, 250, 177 N. E. 489, 491, 87 A. L. R. 418.) Applying this basic principle to our present problem we have no doubt that when the appellant, as a witness upon the inquiry at the special term, declined to sign a waiver of immunity and thus refused to relinquish in advance a privilege which the Constitution guarantees to him, he was within his legal right. As was said by Presiding Justice Lazansky in Matter of Ellis (258 App. Div. 558, 572, 17 N. Y. S. 2d 800, 813 (reversed 282 N. Y. 435, 26 N. E. 2d 967 (1940)), expressing the minority view at the appellate division: 'The constitutional privilege is a fundamental right and a measure of duty; its exercise cannot be a breach of duty to the court.'

"It follows that, upon the facts disclosed by the record, the present disciplinary proceedings instituted against the appellant, wherein the single offense charged is his refusal to yield a constitutional privilege, is unwarrantable."

See also Matter of Kaffenburgh (188 N. Y. 49, 80 N. E. 570, 571 (1907)), where the court specifically rejected as a ground for disbarment a charge that an attorney had refused to testify, claiming the privilege against self-incrimination. (Cf. Ex parte Marshall, 165 Miss. 523, 147 So. 791 (1933); In re Dorsey, 7 Porter 293 (Ala., 1838).)

In In re Holland (377 Ill. 346, 36 N. E. 2d 543 (1941)), the Supreme Court of Illinois refused to discipline an attorney who was also a judge of the Chicago Municipal Court and who refused to answer questions in a grand jury investigation of a murder which had taken place on the streets of Chicago. The argument had been advanced that the respondent had a paramount duty as a lawyer to refuse to exercise his constitutional privilege and that his exercise of it rendered him subject to discipline. The court, however, replied to this as follows (36 N. E. 2d at 546–547):

"The late Mr. Justice Cardozo in his Paradoxes on Legal Science, page 48, makes the statement that where government makes a declaration of right, such is 'the admission by organized society that the claim is justified from the public point of view.' That principle may be applied in a case of this kind. The right given by the Constitution being legal, is as well a moral right, since the public point of view can scarcely be said to include that which is not moral."

The court further noted that the respondent-attorney was well justified in claiming the privilege against self-incrimination even though his fear of prosecution might not be well founded, stating (36 N. E. 2d at 549):

"While it is not to be construed as the opinion of this court that respondent's fears of an unjust prosecution are well founded, and we express no opinion in that regard, yet the facts hereinabove referred to, as well as the common knowledge of those familiar with the processes of the criminal law, that such processes have at times been used for purposes not founded on the furtherance of justice, must be considered in determining respondent's good faith in fearing indictment."

So in the case at bar, appellant's refusal to testify as to certain questions on the ground of the privilege against self-incrimination could suggest only that he had a genuine fear that his testimony might lead to prosecution, whether just or unjust. Unless all precedents are to be violated, his assertion of the privilege affords no ground for disciplinary action.

C. May the Right of an Attorney To Claim Freedom From Self-Incrimination Be Avoided by Terming His Status at the Bar a Revocable "Privilege"?

As has been shown, the cases unanimously uphold the right of an attorney to exercise his constitutional privilege not to be a witness against himself. The court below, while paying lipservice to this doctrine by acknowledging that an attorney may have this right, sought to nullify its effect by asserting he may not exercise the right and retain the privilege of practicing law (R. 119).

This, however, contravenes the decision of this court in *Florida State Board of Architecture* v. *Seymour*, supra. As stated above, the court there held the deprivation of the right to earn a living, even in a licensed profession, to be a penalty, and held that an immunity supplanting the privilege against self-incrimination prohibited the imposition of such a forfeiture. The court stated (62 So. 2d at 3):

"The terms of the statute must be as broad as the constitutional guaranty and when so construed it would avail the defendant nothing if it did not comprehend a proceeding to revoke his architect's certificate. A penalty generally has reference to punishment imposed for any offense against the law. It may be corporal or pecuniary. A forfeiture is also a penalty and has to do with the loss of property, position or some other personal right for failure to comply with the law. The right to earn a living including other personal rights are protected by the immunity statute."

This doctrine would lose any meaning or effect if the easy distinction between the constitutional "right" not to be a witness against oneself and the "privilege" of practicing law, as advanced below, were permitted to stand.

Furthermore, the only support that could be mustered for the distinction violates a fundamental corollary of the privilege against self-incrimination. If, as the court below had to acknowledge, appellant had the right to invoke the privilege, by what logic could the court disbar him? Only because the court inferred from the invocation of the privilege against self-incrimination that facts existed, or, more literally, that doubts existed (R. 117–118), which warranted such deprivation. Of course, as has been amply shown, no such inference is legally permissible or valid.

In short, unless one is to disregard the constitutional tenet that no adverse inferences arise from a plea of self-incrimination, there is no valid basis for a court's recognizing—as it must—the legality of such a plea and simultaneously, by imposing a sanction on its exercise, in effect denying it such legality.

While the *Seymour* case dealt with an architect, this court left no doubt as to its applicability to the professions generally, including the legal profession. In pressing for the revocation of the architect's license, the Board of Architecture—like the brief of the American Bar Association in the instant case—relied on *In re Rouss* (221 N. Y. 81, 116 N. E. 782 (1917)), in which the New York court held that a proceeding for disbarment of an attorney was not a forfeiture within the meaning of a local statute conferring a limited immunity. This court, however, specifically rejected that case as not being a correct statement of the law. (62 So. 2d at 3.)

The argument that, in order to practice law, a man must abandon the right not to be a witness against himself was answered long ago by the Federal Court in Alabama in *In re Shorter* (22 Fed. Cas. 16, No. 12,811 (1865)). Noting that the privilege against self-incrimination, together with other fifth and sixth amendment rights, "are among the most solemn of all the guaranties of the Constitution" and "are not concessions to liberty, as is sometimes supposed; [but] are restraints upon government, and bulwarks against oppression," the court forcefully sustained an attorney's right to retain his professional status notwithstanding his availing himself of the privilege. It said (22 Fed Cas. at 19):

"It is unworthy of the great question to say that a man is not obliged to put himself in the supposed dilemma; that all he has to do is not to attempt the practice of his profession in the national courts, and he will not run the risk of testifying to his own guilt. This is the merest and shallowest sophistry. If he keep silence, he is thereby deprived of a constitutional right; if he speak, he becomes 'a witness against himself'."

This uncompromising view was adopted by the Supreme Court of the United States in *Ex parte Garland* (4 Wall. 333, 379 (1866)). In declaring unconstitutional as a bill of attainder the requirement that an attorney take an oath that he had not adhered to the Confederate cause, the Supreme Court stated:

"The attorney and counselor being, by the solemn judicial act of the court, clothed with his office, does not hold it as a matter of grace and favor. The right which it confers upon him to appear for suitors, and to argue causes, is something more than a mere indulgence, revocable at the pleasure of the court, or at the command of the legislature.

It is a right of which he can only be deprived by the judgment of the court, for moral or professional delinquency.[2]

Equally, the appellant here may not be deprived of his right to practice law because of his exercise of a constitutional privilege which he admittedly had, but only for moral or professional delinquency found upon proper evidence. And as has been uniformly held, no delinquency of any character may be inferred from the invocation of the privilege against self-incrimination. (See also *Dent* v. *West Virginia* (129 U. S. 114 (1889)).)

Nothing in the status of a lawyer as an officer of the court justifies a limitation upon his rights as a citizen. It certainly is not a basis for limiting his right to hold and express political views and to affiliate himself with political organizations, or for abridging his right not to be a witness against himself. In some segments of the profession abroad, a lawyer is a government appointee or a civil servant. (Schweinburg, Law Training in Continental Europe (1945) 60–62, 73, 78.) This is not true of lawyers here; a lawyer is a member of a free profession. The limitations and disabilities that attach to a public employment have not applied to him.

Even where a suspected offense touches intimately on the function of an attorney as an officer of the court—in fact, even where an attorney was a judge—the attorney's constitutional rights have been uniformly preserved and respected. (*In re Holland, supra;* cf. *Matter of Kaffenburgh, supra.*)

The action of the court below paralleled that of the State racing commission several years ago in suspending a licensed horse trainer. The contention that, in accepting the "privilege" afforded by his license, the trainer also accepted the liability of having this "privilege" suspended irrespective of the due-process requirements was specifically rejected by this court. In *State ex rel. Paoli* v. *Baldwin* (159 Fla. 165, 31 So. 2d 627, 630 (1947)), the court said:

"The possession of the license by the relator to pursue the profession of a race horse trainer in Florida was a valuable property right in the relator."

Compare *Boynton* v. *State, supra.*

In concluding this phase of the subject, we quote again from the case of *In re Holland, supra* (36 N. E. 2d at 548), where the Court stated:

"Complainants say that they are not contesting the right of respondent to claim his privilege but they say that his duty to refuse to do so is of sufficient importance to require that he be disciplined if he claims the privilege. We are unable to follow the argument of counsel that this would not result in a limitation such as was condemned in the Opinion of Justices just referred to. To say that one has an absolute right to a privilege, but if he exercises it he will be punished, is to limit his enjoyment of that right, and unless the circumstances surrounding him or duties placed upon him are of such character to require, in honesty and good conscience, that he waive the right [referring here to policemen, for example, who are expressly charged with the duty of investigating crime, see 36 N. E. 2d at 549] we are unable to see wherein it can be said that an individual, be he judge, lawyer or layman, is either legally or morally guilty of a wrong should he claim the right." (Matter in brackets added.)

D. Did the Presumption Made Below From Appellant's Assertion of His Privilege Violate Due Process?

Upon the appellant's assertion of the privilege against self-incrimination at the hearing in the court below, the judge immediately ordered the disbarment entered of record (R. 149). In his written opinion he reiterated that the determination was made immediately upon the claim of privilege (R. 118). Thus, despite the fact that the court acknowledged that the privilege was available to appellant, it proceeded to raise an immediate, conclusive and irrefutable presumption of unfitness to practice law upon the bare assertion of the privilege. We submit that this action violated not only the appellant's privilege against self-incrimination but as well his right to due process under section 12 of the Declaration of Rights of the Constitution of the State of Florida and the Fourteenth Amendment to the Constitution of the United States.

Twining v. *New Jersey, supra,* held that the Federal Constitution may not make recognition of the privilege against self-incrimination embodied in the fifth amendment obligatory upon the States. If a State, however, independently recognizes the privilege, as this State does, the due process clause of the 14th amendment does require that the State permit no unfavorable presumption to arise upon its exercise. As the Supreme Court of the United States said in *Adamson* v. *California* (332 U. S. 46, 55 (1947)):

"It is, of course, logically possible that while an accused might be required, under appropriate penalties, to submit himself as a witness without a violation of due process, comment by judge or jury on inferences to be drawn from his failure to testify, in jurisdictions where an accused's privilege against self-incrimination is protected, might deny due process. For example, a statute might declare that a permitted refusal to testify would compel an acceptance of the truth of the prosecution's evidence."

The decision here goes even further than the extreme example of unconstitutionality given in the Adamson case. For the court below, without benefit of any statute, in effect declared that the appellant's refusal to testify, although permissible under section 12 of the declaration of rights, compelled an acceptance of the truth, not of the prosecution's evidence, for none had been presented, but of the mere charges against the appellant.

Assume that in a trial on an indictment, the prosecutor called only the defendant as a witness, that the defendant invoked the privilege against self-incrimination, and that the prosecutor then rested. Could the judge charge that the defendant's resort to the privilege gave rise to the presumption that the charge was true? Yet what transpired in the court below was no less a departure than this purely hypothetical situation.

We submit, therefore, that the order of disbarment was a clear violation of section 12 of the Declaration of Rights and of the due process clause of the 14th amendment to the Federal Constitution. This Court should restore these time-honored rights of our legal heritage to that calling which, above all others, is charged with responsibility for the maintenance of these rights for other citizens.

Question II

"May an attorney be disciplined by reason of his refusal to answer questions concerning membership in the Communist Party upon an assertion of his rights under the first amendment to the Constitution of the United States and sections 13 and 15 of the Florida Declaration of Rights?"

The record contains no showing whatsoever of any overt act on appellant's part seeking to overthrow the government of the State of Florida or of the United States by force and violence or any other unlawful means. It contains no showing whatsoever of advocacy or approval by appellant of any such action. And even if, arguendo, one were to assume that appellant was at some time a member of the Communist Party, the record is still devoid of any showing that appellant participated in any unlawful action or advocacy attributed to that organization.

We have discussed above the legal impropriety of predicating any inference or assumption on the appellant's refusal to answer in the present case. Even if such inference or assumption were indulged in, however, there could be presumed no more than that appellant was a member of the Communist Party. A disbarment, however, may not be predicated on this fact alone.

A. May Personal Guilt Be Attributed to an Attorney Solely by Reason of Membership in the Communist Party?

The first amendment to the Constitution of the United States and its counterpart in sections 13 and 15 of the Declaration of Rights establish as fundamental law the right to freedom of speech and of thought and the correlative right of assembly and association by which these freedoms are more effectively expressed. In *De Jonge* v. *Oregon* (299 U. S. 353, 364 (1937)), Mr. Chief Justice Hughes noted:

"Freedom of speech and of the press are fundamental rights which are safeguarded by the due-process clause of the 14th amendment of the Federal Constitution. (*Gitlow* v. *New York, supra,* p. 666; *Stromberg* v. *California, supra,* p. 368; *Near* v. *Minnesota* (263 U. S. 697, 707); *Grosjean* v. *American Press Co.* (297 U. S. 233, 243, 244).) The right of peaceable assembly is a right cognate to those of free speech and free press and is equally fundamental. As this Court said in *United States* v. *Cruikshank* (92 U. S. 542, 552): 'The very idea of a government, republican in form, implies a right on the part of its citizens to meet peaceably for consultation in respect to public affairs and to petition for a redress of grievances.' The first amendment of the Federal Constitution expressly guarantees that right against abridgment by Congress. But explicit mention there does not argue exclusion elsewhere, for the right is one that cannot be denied without violating those fundamental principles of liberty and justice which lie at the base of all civil and political institutions—principles which the 14th amendment embodies in the general terms of its due-process clause. (*Hebert* v. *Louisiana* (272 U. S. 312, 316); *Powell* v. *Alabama* (287 U. S. 45, 67); *Grosjean* v. *American Press Co., supra.*") See also *Stromberg* v. *California* (283 U. S. 359 (1931)); *Herndon* v. *Lowry* (301 U. S. 242 (1937)).

The right to hold and express views, individually or in association, is a positive right of every individual, whether those views be popular or not, whether they are accepted or loathed. In *Wieman* v. *Updegraff* (344 U. S. 183, 194 (1952)), Mr. Justice Black, concurring, said:

"It seems self-evident that all speech criticizing government rulers and challenging current beliefs may be dangerous to the status quo. With full knowledge of this danger the framers rested our first amendment on the premise that the slightest suppression of thought, speech, press, or public assembly is still more dangerous. This means that individuals are guaranteed an undiluted and unequivocal right to express themselves on questions of current public interest. It means that Americans discuss

[2] It is significant that the arguments advanced by the dissenting minority which favored Garland's exclusion from the bar are strikingly parallel to those put forth by the proponents of appellant's disbarment in the instant case. Compare 4 Wall. at 385–386 with the opinion below at R. 104. These considerations, however, were regarded by the majority as less compelling than the specific constitutional safeguards which, it held, entitled Garland to become a member of the bar. See generally on this subject, Russ, The Lawyer's Test Oath During Reconstruction, 10 Miss. L. J. 154 (1938).

such questions as of right and not on sufferance of legislatures, courts, or any other governmental agencies. It means that courts are without power to appraise and penalize utterances upon their notion that these utterances are dangerous. In my view this uncompromising interpretation of the Bill of Rights is the one that must prevail if its freedoms are to be saved. Tyrannical totalitarian governments cannot safely allow their people to speak with complete freedom. I believe with the framers that our free Government can."

In *West Virginia State Board of Education* v. *Barnette* (319 U. S. 624, 640–641 (1943)) the Court held:

"Struggles to coerce uniformity of sentiment in support of some end thought essential to their time and country have been waged by many good as well as by evil men * * *. As governmental pressure toward unity becomes greater, so strife becomes more bitter as to whose unity it shall be * * *. Ultimate futility of such attempts to compel coherence is the lesson of every such effort from the Roman drive to stamp out Christianity as a disturber of its pagan unity, the Inquisition, as a means to religious and dynastic unity, the Siberian exiles as a means to Russian unity, down to the fast-failing efforts of our present totalitarian enemies * * *.

"We set up government by the consent of the governed, and the Bill of Rights denies those in power any legal opportunity to coerce that consent. Authority here is to be controlled by public opinion, not public opinion by authority."

To add a further illustration, in the attack of Henry VIII upon opposition to his efforts to establish the Church of England and to limit the authority of the Catholic Church officers, he caused Parliament to adopt a statute making it treason to deny his titles. (26 Henry VIII, ch. 13 (1534)). As a recent historian stated, this statute brought into the category of treason "not only the specific overt actions to which it had been limited by the act of Edward III (1351), but also 'verbal treason' and even the refusal to answer incriminating questions. It is easy to see what vast opportunities were thus given for fastening a practically irrefutable charge of treason on any victim selected, when the recognized principle was that the onus probandi lay with the accused. An irresistible instrument of tyranny was created, justified, of course, by the usual argument that without such powers it was not possible to deal adequately with the abnormal dangers of the situation. It need only be remarked that where there is practically no check on the abuse of such powers save the scrupulosity of the persons in whom they are vested, the risk of flagrant injustice becomes almost incalculable. Since the days of Edward III, no monarch had occupied the throne with less risk of serious treason than Henry VIII * * *. Yet the treason statute of Edward III had under them been held sufficient. The new act was in truth but one step in the development of autocracy under constitutional forms" (Inness, England Under the Tudors (9th edition, 1929), 136–137).

The examples here cited show that in times of political and social stress, the majority, or those in authority, seek to impose conformity with views and associations deemed acceptable by them and to inflict penalties of various kinds on the dissenters and nonconformists. Justification for the penalties is predicated on the theory that dissent or nonconformity is equivalent to "disloyalty" to the Government.

In the present case, the court below imputed membership in the Communist Party to appellant solely by reason of his reliance on his constitutional right to be silent. On the basis of this assumption it then proceeded to link appellant with offenses of which others were convicted, these others also being presumed to be members of the Communist Party (R. 103–109).

Apart from the impropriety of any inferences drawn from appellant's silence, and apart from the further impropriety of arriving at a finding of guilt by piling inference upon inference of this character (*Gustine* v. *State* (86 Fla. 24, 97 So. 207 (1923))), it is clear that neither the conduct nor the views of others could constitutionally be attributed to appellant solely by reason of any organizational membership on his part. As was said in *Schneiderman* v. *United States* (320 U. S. 118, 136 (1943)), in reversing a denaturalization order based on finding of membership in the Communist Party:

"Under our traditions, beliefs are personal and not a matter of mere association, and * * * men in adhering to a political party or other organization notoriously do not subscribe unqualifiedly to all its platforms or asserted principles."

Nor does it help to say that the Communist Party advocates the overthrow of the Government by force and violence, as was indeed said by the court below. Precisely the same argument was rejected in the Schneiderman case, when the Court said (320 U. S. at 146):

"Apart from his membership (in the Communist Party) * * * the record is barren of any conduct or statement on petitioner's part which indicates in the slightest that he believed in and advocated the employment of force and violence, instead of peaceful persuasion, as a means of attaining political ends."

The prohibition of an identification of personal views based upon association with organizations currently characterized as "subversive" was repeated by a unanimous court in the recent case of *Wieman* v. *Updegraff*, *supra*.

As in the Schneiderman case, the record here, too, is barren of any showing of conduct or statement by appellant which in any way indicates any belief or advocacy of the use of force and violence. As in the Wieman case, the record here, too, is barren of evidence of awareness on appellant's part of any purpose of the Communist Party to use force and violence, or of evidence of any conduct or utterance on his part indicating sympathy with or participation in any such purpose.

Thus, even if there were room for any inference that appellant was a member of the Communist Party, the disbarment here must have rested on the basis of such membership alone. Such action, in the absence of proof of appellant's own conduct or advocacy, was a violation of appellant's rights under the first amendment and sections 13 and 15 of the Declaration of Rights.

Nor can the contemporary tensions or apparent urgencies of the moment be advanced as justifying an abridgment of these rights in the circumstances of the present case. As this court said in *Pittman* v. *Nix* (152 Fla. 378, 11 So. 2d 791, 794 (1943)):

"We must not forget that the liberty guaranteed to us by section 13 of our Declaration of Rights includes freedom of speech and of the press. The mere fact that labor unions and their leaders sometimes, even when our country is in the midst of a great war, abuse their powers and privileges, to the great detriment of the general public, should not cause us to deny or impair the well settled legal right of employed workers to organize labor unions and to use their powers of persuasion to induce others to join them, so long as no fraud or coercion is resorted to."

Even the exigencies of a shooting war could thus not serve as the justification for an abridgment of the right of labor organizations and their leaders to freedom of speech and association. No more can the stresses of today be asserted as a basis for infringing these time-honored rights in the present case.

B. Do an Attorney's Belief and Affiliations Bear a Relationship to His Fitness as an Attorney, So That His Refusal To Testify as to Them Warrants His Disbarment?

The drastic penalty of disbarment cannot, of course, be inflicted arbitrarily. It can only be based on conduct by an attorney which requires a measure of this severity. With respect to the nature of such conduct, this court has zealously adhered to the rule that it must bear some relationship to one's character as an attorney. In *Branch* v. *State* (99 Fla. 444, 128 So. 487, 488 (1930)), this court reversed the disbarment of an attorney convicted of assault with intent to murder, because there was "no evidence as to whether the crime was committed by the respondent under such circumstances as 'show him to be unfit for the trusts and confidence reposed in him as an attorney,' or as showing 'any unprofessional acts which unfit him for association with the fair and honorable members of the profession'." (Cf. *Gould* v. *State* (99 Fla. 662, 127 So. 309 (1930)).)

Granting, as one must, that appellant possessed unimpaired the constitutional rights of freedom of expression and association, it is clear that his refusal to reply to an interrogation concerning these rights did not in any manner bear on his fitness as an attorney.

In the first place, it was his right to be silent when asked questions trenching on his first amendment rights. In *United States* v. *Rumely* (345 U. S. 41 (1953)) the defendant was the secretary of an organization "which, among other things, engaged in the sale of books of a particular political tendentiousness" (345 U. S. at 42). At a legislative hearing, he refused to disclose the names of those who purchased these books for distribution. The court supported his refusal, holding that to sustain the inquiry would raise doubts of constitutionality under the first amendment.

In *Thomas* v. *Collins* (323 U. S. 516 (1945)) the Supreme Court held that a registration statute requiring only that a labor organizer identify himself and reveal his union affiliation and credentials violated the first amendment. The interest of the State in protecting its citizens through the regulation of vocations was held an insufficient basis for sustaining the disclosure requirements of the statute.

In the second place, the rule as applied to attorneys specifically declares that disclosures generally comparable to those sought in the present case bear no reasonable relationship to their qualifications to practice their profession. Refusal to make disclosure, therefore—even apart from fifth amendment grounds—is no basis for exclusion from the status of attorney.

In *Dent* v. *West Virginia* (129 U. S. 114 (1889)) the Supreme Court discussed its earlier holdings in *Ex parte Garland*, *supra*, and *Cummings* v. *Missouri* (4 Wall. 277 (1866)), which invalidated the oaths prescribed in certain Civil War statutes as prerequisites to the practice of law. As has been mentioned, these oaths set forth a denial that the taker of the oath had engaged in activity inimical to the United States. In the Dent case, the Supreme Court said (129 U. S. at 126):

"As many of the acts from which the parties were obligated to purge themselves by the oath had no relation to their fitness for the pursuits and professions designated, the Court held that the oath was not required as a means of ascertaining whether the parties were qualified for those pursuits and professions, but was exacted because it was thought that the acts deserved punishment."

The disclosures prescribed in the oaths in the Garland and Cummings cases were designed to elicit information not only as to the political sympathies of attorneys and others—Garland was an attorney, Cummings a clergyman—but also as to their actual conduct in furtherance of their sympathies and beliefs. Arguably, there would be a stronger basis for the conclusion that a government should not permit persons whose conduct had been hostile to it to practice law or engage in other professions. Nevertheless, the requirement that the conduct or belief which justified exclusion must be related to one's professional qualifications or disqualifications as such overrode this consideration. Mr. Garland's refusal to make disclosure as required by the statutory oath was held to have no bearing on his qualifications for the legal profession, and therefore to constitute no ground for denying him his right to practice it.

In the present case the disbarment was predicated solely on appellant's refusal to reply to inquiries as to his political beliefs and associations. In the light of the authorities, these matters are not reasonably related to his professional qualifications and his silence therefore affords no ground for the action taken by the court below.

C. Does the Denial of a Lawyer's Constitutional Rights Impair the Freedom of the Bar and Threaten the Liberties of the People?

The freedom enjoyed by citizens generally from inquiries which trench on first amendment rights assumes especial importance in the case of a lawyer. In insisting on preserving traditional rights in this area, the lawyer not only vindicates his own liberties. As a defender of the public liberties in his professional capacity, his insistence on his own rights in this regard defends also the rights of the public.

Lawyers historically have been called upon to defend the challenged civil liberties of their own generations. See, for example, Lord Erskine's defense of Thomas Paine in 1792 for publishing The Rights of Man, notwithstanding his removal as Attorney General, described in Stryker, For the Defense (1949) 280 et seq.; Andrew Hamilton's defense of John Peter Zenger, described in Weinberger, The Liberty of the Press (1934) 1; Hay, Nicholas and Wirt's defense of James Thompson Callendar upon an indictment under the Alien and Sedition Laws, 10 Amer. St. Trials 813 (1800), described in Bowers, Jefferson and Hamilton (1926), 400–402; Charles Evans Hughes' defense of the right of Socialists to sit in the New York legislature; and Wendell Willkie's defense of a Communist in *Schneiderman* v. *United States, supra.*

The willingness of lawyers to continue to fulfill this historic role would be sharply curtailed were it to be established that their own views and associations become subject to inquiry. For clearly, if these matters are held to be so subject, lawyers will hesitate, as many have hesitated in recent years, to defend the rights of the politically unorthodox. A special committee of the American Bar Association on individual rights as affected by national security (78 reports of the American Bar Association, 304, 307 (1953)), reported as follows:

"* * * counsel of outstanding reputations, well known for their anti-Communist views, in several recent cases involving Communists or persons accused of being Communists, which they took out of a sense of public duty, have been subjected to severe personal vilification and abuse. Many persons showed by their changed attitude toward these lawyers that they assumed that such representation meant that the lawyer is to be regarded as sharing the views of the client. Leading counsel, acting by court assignment, at great personal sacrifice, representing a Nazi during the war was spat at in the courtroom. A leading lawyer has been attacked editorially for undertaking to represent an alleged racketeer in a trial involving grave constitutional questions. Important legal business has been taken elsewhere rather than going to reputable counsel who were preferred but who had represented defendants accused of being Communists. These episodes could no doubt be multiplied. Their existence is a serious cloud on the proper discharge of the lawyer's duty; the bar must throw its weight against such things."

The lawyer's freedom to defend unpopular clients goes to the very heart of his public duties. Canon XV of the Canons of Professional Ethics enjoins upon the lawyer that "no fear of judicial disfavor or public unpopularity should restrain him from the full discharge of his duty." The report of the bar association committee indicates that the effectiveness of this mandate has been already considerably weakened. The action of the court below, if sustained, can only serve as a further warning to the bar to sever themselves even more effectively from causes and clients not held in the public esteem. Ultimately the American tradition of freedom and its keystone, the lawyer's right to defend it, will be even more seriously threatened than they are today.

As was said by Mr. Justice Black in the Lawyer and Individual Freedom (21 Tenn. L. Rev. 461, 469 (1950)):

"Who but lawyers are able to stop at the threshold any of the dangers that come from an invasion of the individual rights upon the theory that this Nation has something to fear by recognizing the liberty of the individuals? I do not think there is any group in America outside the lawyers who can be expected to preserve the individual liberties about which people speak. The liberty of the individual to go to the church of his choice, to belong to the party of his choice, to speak his views, however bad we may think they are. No people but the lawyers, and when they fail, the torch of individual liberty will be carried by nobody else."

CONCLUSION

The case requires not only a vindication of the appellant's right to be free of political inquisition. It calls for a reaffirmation by this Court of the right of the lawyer as a citizen. Like citizens generally, the lawyer must be free to invoke his constitutional rights and privileges, including those under the first and fifth amendments and their counterparts in the Florida Declaration of Rights, without being penalized for doing so. This is essential for the protection of the rights of the appellant in the present case. It is equally essential for the maintenance of the historical role of the lawyer in preserving the great traditions of the bar and the liberties of the people.

Respectfully submitted.

NATIONAL LAWYERS GUILD,
MALCOLM P. SHARP,
President.
JESSICA DAVIDSON,
Secretary.
OSMOND K. FRAENKEL,
JOHN M. COE,
Attorneys for National Lawyers Guild.

BRIEF OF THE SPECIAL COMMITTEE ON COMMUNIST TACTICS, STRATEGY, AND OBJECTIONS ON BEHALF OF AMERICAN BAR ASSOCIATION AS AMICUS CURIAE

PRELIMINARY STATEMENT

This brief is filed pursuant to the order of this court of January 11, 1955. The committee and the association appreciate the privilege granted to appear herein, amicus curiae.

The American Bar Association desires to assist this court by discussing fundamental concepts and legal principles which apply to the disciplinary proceeding and the appeal herein. The discussion will be based upon the following undisputed facts:

1. That petitioner was a member of the Florida Bar.

2. United States Senate Resolution 366 of the 81st Congress.

3. Petitioner's refusals under the fifth amendment to testify on March 18, 1954, at New Orleans, La., before a United States Senate subcommittee investigating subversive influences and activities.

4. Petitioner's refusal under the fifth amendment to answer pertinent questions concerning petitioner's membership in the Communist Party, asked of him at the hearing on the motion to disbar.

QUESTIONS INVOLVED

1. "Does the immunity of an individual against self-incrimination under the fifth amendment of the Federal Constitution preclude the State court from determining his status as an attorney and one of its officers?"

2. "Is the court warranted in disbarring an attorney for refusing to answer pertinent questions in a duly authorized congressional investigation into espionage, sabotage, and subversive activities in the United States and internal security, and in subsequent disciplinary proceedings, on the ground stated by him that his answers will incriminate or might tend to incriminate him?"

ARGUMENT

1. The distinction between a person's status as an individual and his status as an attorney and officer of the court is of primary importance

In a disciplinary proceeding, the sole ultimate question is the present fitness of the attorney to continue as an officer of the court.

The rights of an individual—whatever his profession, calling, or office—may or may not be consistent with his professional or official status. Where consistent, there is no problem. Where, however, the individual rights are inconsistent, a choice becomes necessary either to forego the right or relinquish the profession or office.

The constitutional right under the fifth amendment is granted to everyone as an individual for his own protection against self-incrimination. The American bar will protect that right whoever the individual and whatever the crime suspected or charged or refused to be revealed. However, whenever the assertion of that constitutional right by one who is also an attorney is inconsistent with his high status as attorney, the American Bar Association will safeguard the individual's constitutional right and urge the reexamination and reappraisal of fitness and the determination of his future professional status.

2. Membership at the bar is not a right but a high privilege dependent upon continuous exacting conditions

Admission to the bar is not a right. It has always been deemed a privilege—a high privilege. It has always been conditioned upon high standards and the constant maintenance after admission of those standards. The term "fitness" includes all the essential qualifications of character, record, reputation, good citizenship, ideals, and legal training.

The proper concept of the office of an attorney determines his high responsibility.

Throughout this Nation and in each State, the bar is regarded as the indispensable arm of justice and as the first line of protection of our Constitution and constitutional government. The attorney in his very oath of office swears to support the Constitution of the United States and of his State—including the right to urge wise, constructive, stupid, or obnoxious changes in our form of government only by orderly process of amendment provided by the Constitution.

In this protection of constitutional government and in the administration of justice, the bar, and each of its members, has a vital responsibility. The fulfillment of that responsibility rests upon the fitness of each attorney. Loyalty to this Nation, its Constitution, and to his own oath as attorney is indispensable throughout his career and, if at any time it be shadowed in doubt or suspicion by his own conduct, he may be required to satisfy the court of his present fitness to continue. In any disciplinary proceeding, the attorney has the duty to answer fully and frankly any pertinent question that might establish his fitness or unfitness.

The Supreme Court of Illinois recently rejected the application for admission to its bar by one who had refused to answer whether he was a member of the Communist Party or of any of the subversive organizations on the list compiled by the United States Department of Justice. The applicant contended the question was inquiry into his political beliefs and an illegitimate question. The court denied his admission. *In re George Anastaplo* (— Ill. —, 121 N. E. 2d 826 (1954)).

The same standard applies to attorneys after admission.

3. Except as limited by the Federal Constitution or its State constitution, each State through its courts has sole right to determine the membership of its bar

No profession or calling requires a higher standard of character and reputation or has a higher code of ethics and conduct. This standard has been fixed by the profession and the courts.

In *In re Summers* (325 U. S. 561), the Supreme Court of the United States held that the "responsibility for choice as to the personnel of its bar rests with" the State. In that case the courts of Illinois had refused to admit to its bar a conscientious objector, who would not bear arms, on the ground that the oath to protect the constitution of the State included service in the militia. The right of the State was upheld though it was claimed its refusal bordered on the infringement of the applicant's right of religion. (See also petition of Jacksonville Bar Association (169 So. 674); petition of Florida Bar Association (21 So. 2d 605); *In re George Anastaplo*, supra.)

On the day of an attorney's admission to the bar, the court certifies to the public his fitness as an officer of the court. Every day thereafter, the court certifies his continued fitness and worthiness. The court has the power at any time and the duty whenever facts indicate the need—to reinquire and redetermine the fitness of an attorney to continue. "An inquiry into past or present membership in the Communist Party is an inquiry regarding official conduct of a city official or employee." (See *Daniman* v. *Board of Education of New York* (306 N. Y. 532, 119 N. E. 2d 373).)

In *Matter of Rouss* (221 N. Y. 81, 116 N. E. 783), Cardozo, J., writing the opinion for the court of appeals which has become the beacon light in disciplinary proceedings, said:

"Membership in the bar is a privilege burdened with conditions. A fair private and professional character is one of them. Compliance with that condition is essential at the moment of admission; but it is equally essential afterwards (citing cases). Whenever the condition is broken, the privilege is lost. To refuse admission to an unworthy applicant is not to punish him for past offenses. The examination into character, like the examination into learning, is merely a test of fitness. To strike the unworthy lawyer from the roll is not to add to the pains and penalties of crime. The examination into character is renewed; and the test of fitness is no longer satisfied" (pp. 34–35).

Disciplinary proceedings are special proceedings. They are not criminal in nature—nor do they involve punishment, penalty, or forfeiture. They are a completely independent investigation by the court of one of its own officers. Neither the legislature by its immunity statutes nor the governor by pardon deprives the court of its inherent power to inquire into and determine the fitness of its officer. (See *Matter of Rouss, supra;* in the matter of ——— ———, an attorney (86 N. Y. 563).)

Upon such inquiry and the determination that the standard of fitness originally found and always required is no longer present, the court has the duty to discipline.

The American Bar Association does not contend that membership in the Communist Party establishes disloyalty of a lawyer unless he (1) joined voluntarily, (2) understood the conspiratorial nature of the party, and (3) intended thereby to support its criminal purposes. But membership, alone, casts upon an attorney, as an officer of the court, the responsibility to disclose fully any such extenuating facts or circumstances. Duress in joining the Communist Party, lack of knowledge of its conspiratorial nature, and intention not to support its criminal purposes, are all facts peculiarly within the knowledge of the person charged with being a member of the party.

The petitioner, Leo Sheiner, has demonstrated his disqualification and unfitness to continue as an attorney and officer of the court, by—

(a) His refusals on the ground that his answers may incriminate or tend to incriminate him, to answer pertinent and important questions by the United States Senate subcommittee investigating espionage, sabotage, subversive activities and internal security in the United States; and

(b) His refusal, on the same ground, to answer questions by the circuit judge at the hearing on the motion to disbar as to petitioner's membership in the Communist Party.

This court will take judicial notice that Senate Resolution 366 of the 81st Congress provides, among other matters, the following: "Now, therefore, be it

"*Resolved,* That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized and directed to make a complete and continuing study and investigation of (1) the administration, operation and enforcement of the Internal Security Act of 1950; (2) the administration, operation and enforcement of other laws relating to espionage, sabotage and the protection of the internal security of the United States; and (3) the extent, nature, and effects of subversive activities in the United States, its Territories and possessions, including but not limited to espionage, sabotage, and infiltration by persons who are or may be under the domination of the foreign government or organizations controlling the world Communist movement or any other movement seeking to overthrow the Government of the United States by force and violence."

From the foregoing, it is apparent that the Senate subcommittee was properly concerned with and at the hearing endeavored to ascertain from the petitioner-witness:

1. The petitioner's affiliation with the Communist Party.

2. The petitioner's activities in subversive organizations or with subversive persons.

3. The petitioner's knowledge of subversive activities by others.

On vital and pertinent questions, the petitioner invoked the fifth amendment and refused to answer. These questions were directed to his own personal activities and not to any relationship with clients or to confidential communications from them. We shall assume that the petitioner in good faith believed that to answer either would incriminate him or might tend to incriminate him. If he in fact had no such belief, he would be subject to disbarment for improperly impeding a lawful investigation. See *Matter of Levy & Becker* (255 N. Y. 223, 174 N. E. 461).

In the case at bar, the Senate subcommittee confronted the petitioner with a witness who testified as to petitioner's affiliation, position and activities in the Communist Party and its front organizations. However, we do not stress or emphasize the confrontation as important. Even without such confrontation, the petitioner, an attorney, owed the duty to answer and to give the Senate committee the facts within his knowledge.

We respectfully submit that it would be difficult—if not impossible—to conceive of any investigation more important to the Congress or to the people of this country as a basis for legislation than this one conducted to ascertain the full facts of espionage, sabotage and subversion. This was no mere investigation into traffic conditions or tariff rates—which are not underestimated. This investigation involved the possible future existence of our Nation and of our people.

On such investigation, every witness owes the duty to testify fully and frankly unless prohibited by statutes governing confidential communications or security measures. Notwithstanding such duty to testify, there is a constitutional right not to testify if the witness in good faith believes that his testimony will or might incriminate him—not merely embarrass him but incriminate him—not someone else however close or dear—but himself.

The right under the fifth amendment is to the witness as an individual. It is not and never was intended to protect the witness in any office or any privilege. It cannot prevent the court from determining whether the witness, publicly invoking the fifth amendment, has not cast such suspicion on his fitness as an officer of the court that he may no longer continue to have that privilege. The court may withdraw its certification of him to the public and strike his name from its rolls.

We respectfully submit that as an individual the petitioner has a right to refuse to answer any questions that might incriminate him, but that he has by that very act cast the suspicion and created the inference that he might be guilty of criminal acts. Such suspicion and inference—self-created—are sufficient cause to institute disciplinary proceedings.

The refusal of an attorney to explain membership in the Communist Party may fairly warrant a prima facie conclusion that his membership was culpable.

Moreover, in the proceeding before the circuit court below, the petitioner herein was afforded a hearing. There he could have explained away—if possible—his serious refusals to answer important pertinent questions concerning his affiliations and activities. At this hearing, he owed to the court, to his profession, and to himself, the duty of complete candor. Instead, he persisted in concealing the truth—whether innocent, questionable, or criminal—by again invoking the fifth amendment.

The identical question now before this court was recently before the Supreme Court of California, involving an applicant for admission to practice law. The proceeding is entitled *Brooks* v. *The State of California* (LA No. 23067). The applicant for admission to practice law, Edith Brooks, refused to answer questions under the 5th, 9th, 10th, and 14th amendments to the United States Constitution regarding her membership in the Communist Party. She filed a petition for writ of review in the California Supreme Court in an effort to compel the State bar of California and its committee of bar examiners to certify her for admission to practice law. On October 6, 1954, the California Supreme Court, without opinion, denied her petition for writ of review. (See Minutes of

the California Supreme Court, 43 A. C. No. 17, minutes p. 2.)

A practicing lawyer has at least as high an obligation to the courts and to his government as an applicant for admission to practice law.

A similar question was raised in the State of New York in the case of a physician whose license to practice medicine was suspended because of his conviction of a crime resulting from the fact that he had refused to produce subpenaed documents relating to subversive activities before a congressional committee. The United States Supreme Court ruled that his suspension from practice did not violate any of his constitutional guaranties. (*Barsky* v. *Board of Regents of N. Y.* (347 U. S. 442, 98 L. Ed. 829, 74 S. Ct. 650).)

The obligation of an attorney to his government cannot be less than the obligation of a practitioner of medicine.

No case has come to our attention where in the very hearing of the disciplinary proceeding, an attorney has refused to answer pertinent questions on the ground of self-incrimination—and has not been disciplined. Indeed, if such case were found, we should disagree with it as unsound and contrary to every worthy concept of the privilege of an attorney and his duty to the court.

The case of *In re Wellcome* (23 Mont. 450, 59 P. 445 (1889)) involved a disciplinary proceeding against a member of the Montana bar who was charged with having bribed several State legislators. At the time appointed by the court for the attorney to answer the charges, he did not personally appear. The court said:

"If the accused is not guilty, nothing would have been easier than for him to deny all knowledge of the charges laid at his door. His having failed to testify in his own defense, when he should do so, and deny the statements of Whiteside and Clark, not only justified, but irresistibly impels, this court, upon the evidence before it, which is credible, to the conclusion that he is guilty.

"Certainly, the accused is presumed to be innocent until the contrary appears, but in this kind of proceeding this presumption remains with him only until it appears to the court with reasonable certainty that he is guilty. When this is made to appear, then it is incumbent upon him to speak." (23 Mont. 450, 468, 59 P. 445, 452 (1899).)

The Supreme Court of California in 1931 drew the same inference in the case of a lawyer charged with having solicited professional employment.

"He contends that the administrative committee had no power to call him as a witness, and that no inferences can be indulged in because of his failure and refusal to answer questions as to his relationship with Brown and Rose. In this, we think he is in error * * * in disbarment proceedings the accused may be called as a witness, and * * * if he fails to testify in his own behalf, the inference of guilt may be indulged in." (*Fish* v. *State Bar of California* (24 Cal. 215, 222, 4 P. 2d 973, 940 (1931)); in re Fenn (128 S. W. 2d 657 at 664–5, 235 Mo. App. 24).)

Applicable to the case at bar are the principles stated, the views expressed and the determination made by the Supreme Court of Illinois in In re George Anastaplo, *supra*, where the court in discussing the Summers case said:

"Measured by popular belief and opinion, we think that one who would embrace a movement to overthrow our Government by force of arms is relatively more unqualified to fulfill his obligation as a lawyer than is a person who, because of conscientious scruples, would not use force of arms to prevent wrong. The latter admits of some loyalty to his government, the former, none" (p. 832).

The court concluded, at page 833, as follows:

"We conclude that the committee's inquiry into petitioner's membership in the Communist Party was relevant to a determination of his good citizenship and his ability to take the oath of lawyer in good conscience, and that the petitioner's constitutional rights were not infringed upon by such action. On the present record the petition must be denied."

CONCLUSION

The preamble of the Canons of Professional Ethics of the American Bar Association states:

"In America, where the stability of courts and of all departments of government rests upon the approval of the people, it is peculiarly essential that the system for establishing and dispensing justice be developed to a high point of efficiency and so maintained that the public shall have absolute confidence in the integrity and impartiality of its administration. The future of the Republic, to a great extent, depends upon our maintenance of justice pure and unsullied. It cannot be so maintained unless the conduct of the motives of the members of our profession are such as to merit the approval of all just men."

The American people cannot have absolute confidence in the administration of justice if officers to whom that sacred responsibility is entrusted under law are not faithful to the institutions upon which the administration of justice is predicated. For this reason attorneys must take an oath to support the Constitution of the United States and of the State under the laws of which they are admitted to practice.

It is not sufficient to proclaim the lofty concept of the bar, its vital importance to the public and to our form of constitutional government and the ideals upon which the profession's canons of ethics are based. Each of its members must personify them.

Complete trust and confidence in the loyalty to his oath as an attorney are indispensable at all times. By his own acts, petitioner has forfeited the faith of the bench, the bar, and the public in his continued loyalty.

On the two occasions—the congressional investigation and the disciplinary proceeding—the petitioner as an individual had the constitutional right to refuse to answer under the fifth amendment but as an attorney he owed the duty of removing the slightest doubt as to his loyalty to this country and to his oath of office. Petitioner had a choice of right or duty. He chose his right which must be and has been protected—but he relinquished his privileged status as an attorney.

The questions first posed must be answered—the first in the negative and the second in the affirmative.

The circuit judge in the court below on the record properly ordered the name of the petitioner herein stricken from the roll of attorneys of this State.

The duty to disbar any attorney is always painful, but the duty here is clear.

The order of disbarment should be affirmed.

Respectfully submitted.

Herbert R. O'Conor, chairman, Special Committee on Communist Tactics, Strategy, and Objectives on Behalf of American Bar Association, Amicus Curiae; Julius Applebaum, James Madison Blackwell, Tracy E. Griffin, Egbert L. Haywood, R. S. Hemingway, Clarence Manion, Richard E. Munter, Ray Murphy, Paul W. Updegraff, Committee.

CONSTRUCTION OF DISTRIBUTION SYSTEMS ON FEDERAL RECLAMATION PROJECTS

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 366, House bill 103.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H. R. 103) to provide for the construction of distribution systems on authorized Federal reclamation projects by irrigation districts and other public agencies.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill which had been reported from the Committee on Interior and Insular Affairs, with an amendment, to strike out all after the enacting clause and insert:

That irrigation distribution systems authorized to be constructed under the Federal reclamation laws may, in lieu of construction by the Secretary of the Interior (referred to in this act as the "Secretary"), be constructed by irrigation districts or other public agencies according to plans and specifications approved by the Secretary as provided in this act.

SEC. 2. To assist financially in the construction of the aforesaid local irrigation distribution systems by irrigation districts and other public agencies, the Secretary is authorized, on application therefor by such irrigation district or other public agencies, to make funds available on a loan basis from moneys appropriated for the construction of such distribution systems to any irrigation district or other public agency in an amount equal to the estimated construction cost of such system (including a reasonable charge, not exceeding $1,000, for examination of the application, and an additional amount for surveys made by the United States properly chargeable to construction costs and found useful to the applicant), contingent upon a finding by the Secretary that the loan can be returned to the United States in a period of 40 years plus a development period pursuant to reclamation law, and upon a showing that such district or agency already holds or can acquire all lands and interests in land (except public and other lands or interests in land owned by the United States which are within the administrative jurisdiction of the Secretary and subject to disposition by him) necessary for the construction, operation, and maintenance of the project. The Secretary shall, upon approval of the loan, enter into a repayment contract which includes such provisions as the Secretary shall deem necessary and proper to provide assurance of prompt repayment of the loan. The term "irrigation district or other public agency" shall for the purposes of this act mean any conservancy district, irrigation district, water users' organization, or other organization, which is organized under State law and which has capacity to enter into contracts with the United States pursuant to the Federal reclamation laws.

SEC. 3. The Secretary shall require as a condition to any such loan, that the water users' organization contribute in money or materials, labor, lands, or interests in land, computed at their reasonable value, a portion, not in excess of 10 percent, of the construction cost of such project (including all costs of acquiring lands, and interests in land), and that the plans for the distribution system are in accord with sound engineering practices and will achieve the purposes for which the system was authorized. Organizations contracting for repayment of the loans shall operate and maintain such works in conformity with reasonable contractual requirements determined to be appropriate for the protection of the United States, and when full repayment has been

made to the United States, the Secretary shall relinquish all claims under said contracts. Title to distribution works constructed pursuant to this act shall at all times be in the contracting water users' organizations. In addition to any other authority the Secretary may have to grant rights-of-way, easements, flowage rights, or other interests in lands for project purposes, the Secretary or the head of any other executive department may sell and convey to any irrigation district or other public agency at fair value lands and rights-of-way owned by the United States (other than lands being administered for national park, national monument, or wildlife purposes) which are reasonably necessary to the construction, operation, and maintenance of an irrigation distribution system under the provisions of this act. No benefits or privileges under reclamation laws including repayment provisions shall be denied an irrigation distribution system because such system has been constructed pursuant to this act. The provisions of this act shall apply only to irrigation purposes, including incidental domestic and stock water, and loans hereunder shall be interest free. Nothing in this act shall be construed to repeal or limit the procedural and substantive requirements of section 8 of the act of June 17, 1902.

SEC. 4. Except as herein otherwise provided, the provisions of the Federal reclamation laws, and acts amendatory thereto, are continued in full force and effect.

Mr. ANDERSON. Mr. President, this bill represents a departure from customary practice in connection with reclamation districts, but it applies only to those reclamation projects which have been approved and where a distribution system for a part of the project has been approved.

The attention of the committee was called to the fact that in some States it had been found more feasible for relatives and friends to get rights for the distribution system than for the Federal Government to do the work. It was found to be cheaper, since money has to be paid by the irrigators, to let them make their own arrangements. In California it was found that substantial amounts of money could be saved by the irrigators themselves subcontracting the work rather than having it handled through the usual channels, by the Bureau of Reclamation. This is a method we hope to have tried out. If it works as it has worked in California, it will afford a chance of reducing the amount of money required on reclamation projects. We think it is a fine bill. It came to us from the House, and it was reported unanimously by the committee.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

RIGHTS-OF-WAY AND TIMBER-ACCESS ROADS

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 368, Senate 1464, and I call the attention of the Senator from New Mexico to the motion.

The PRESIDING OFFICER. The clerk will state the bill by title.

The LEGISLATIVE CLERK. A bill (S. 1464) to authorize the Secretary of the Interior to acquire certain rights-of-way and timber-access roads.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California.

The motion was agreed to; and the Senate proceeded to consider the bill which had been reported from the Committee on Interior and Insular Affairs, with an amendment, in line 3, after the word "Interior", to insert "for a period of 5 years after the date of enactment of this act", so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior, for a period of 5 years after the date of enactment of this act, may acquire rights-of-way and existing connecting roads adjacent to public lands whenever he determines that such acquisition is needed to provide a suitable and adequate system of timber access roads to public lands under his jurisdiction.

SEC. 2. For the purpose of this act, the term "public lands" includes the Revested Oregon and California Railroad and the Reconveyed Coos Bay Wagon Road Grant Lands in Oregon.

Mr. ANDERSON. Mr. President, this bill was introduced by the distinguished chairman of the Committee on Interior and Insular Affairs, the senior Senator from Montana [Mr. MURRAY], at the request of the Department of the Interior. The bill authorizes the Secretary of the Interior, for a period limited by the committee amendment to 5 years, to acquire rights-of-way and existing connecting roads adjacent to public lands.

In transmitting the draft of the bill, the Department of the Interior pointed out that such authorization is contained in its appropriation act, but that, because it was in an appropriation bill, the authority was limited to 1 year.

The Department sought permanent authority; but the committee decided to make an initial grant of authority for only 5 years, so that the program might be reviewed by the Congress, and so that administrative flaws, if any, could be corrected.

As to the need for the proposed legislation, the Department states:

Much of the public forests under the jurisdiction of this Department is located in areas intermingled with private holdings. It is sometimes possible to enter into agreements which permit the timber purchaser to cross over private lands. On occasion it is not feasible to harvest the timber in the area at reasonable cost without the proposed authority to acquire rights-of-way or roads over private lands. The need may be particularly serious where the timber is overmature, diseased, or insect infested, since such timber should be harvested as soon as possible to realize the values contained in the defective timber and to reduce danger of fires and further damage. Only a relatively small acreage of land would be acquired under the proposed bill. The bill makes it clear that acquisition of rights-of-way or roads would be authorized only when needed to provide access to public timber.

Mr. President, as I have stated, the bill comes to us from the Department of the Interior. The bill was carefully considered by the committee, and we believe the bill should be passed.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

INCREASE IN PUBLIC BENEFITS FROM THE NATIONAL PARK SYSTEM

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 369, Senate bill 1747, increasing the public benefits from the national park system; and I invite the attention of the Senator from New Mexico to the bill.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill (S. 1747) to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs, with amendments, on page 2, line 6, after the word "Purchase", to insert "from such donations and bequests of money"; and on page 3, after line 3, to insert:

SEC. 2. Before disposing permanently (including a disposition made as part of an exchange) of any object or collection received as a donation authorized by this act, the Secretary of the Interior shall (1) give notice of such disposal, at least 30 days prior to the making thereof, to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives, and (2) make a reasonable effort to give notice of such disposal to the donor of such object or collection, or to his heirs if such donor is deceased.

So as to make the bill read:

Be it enacted, etc., That the purpose of this act shall be to increase the public benefits from museums established within the individual areas administered by the Secretary of the Interior through the National Park Service as a means of informing the public concerning the areas and preserving valuable objects and relics relating thereto. The Secretary of the Interior, notwithstanding other provisions or limitations of law, may perform the following functions in such manner as he shall consider to be in the public interest:

(a) Accept donations and bequests of money or other personal property, and hold, use, expend, and administer the same for purposes of this act;

(b) Purchase from such donations and bequests of money, museum objects, museum collections, and other personal properties at prices he considers to be reasonable;

(c) Make exchanges by accepting museum objects, museum collections, and other personal properties, and by granting in exchange therefor museum property under the administrative jurisdiction of the Secretary which is not longer needed or which may be held in duplicate among the museum properties administered by the Secretary, such exchanges to be consummated on a basis which the Secretary considers to be equitable and in the public interest;

(d) Accept the loan of museum objects, museum collections, and other personal properties and pay transportation costs incidental thereto, such loans to be accepted upon terms and conditions which he shall consider necessary; and

(e) Loan to responsible public or private organizations, institutions, or agencies, without cost to the United States, such museum objects, museum collections, and other personal property as he shall consider advisable, such loans to be made upon terms and conditions which he shall consider necessary to protect the public interest in such properties.

SEC. 2. Before disposing permanently (including a disposition made as part of an exchange) of any object or collection received as a donation authorized by this act, the Secretary of the Interior shall (1) give notice of such disposal, at least 30 days prior to the making thereof, to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives, and (2) make a reasonable effort to give notice of such disposal to the donor of such object or collection, or to his heirs if such donor is deceased.

Mr. ANDERSON. Mr. President, the bill gives to the Secretary of the Interior additional authority in connection with the operation of museums and the acquisition and disposition of museum properties. Very frequently a museum receives duplicates, and wishes to effect an exchange for some other item. At the present time there is no means for effecting the exchange of such items. We have tried very hard to protect the authority granted by the bill, by proposing an amendment which provides that before the Secretary of the Interior can dispose of such property, if it was given by an individual family or by an individual donor, the Secretary shall consult those who originally made the gift, before he makes any disposition of such articles.

Enactment of the bill is recommended by the Department of the Interior and by the National Park Service. The committee held hearings on the bill, and heard many witnesses.

I proposed the amendment because it was my belief that if some article had been given to a museum, the article should not be disposed of without affording an opportunity for the donor or the family of the donor to express his or their views upon the matter. But under the amendment, the museums will have the right to handle such matters in a far more satisfactory fashion; and I am sure that, by means of the amendment, the authority granted by the bill will be adequately safeguarded.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DEFENSE PLANT AND MOBILIZATION CONSTRUCTION

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 370, Senate bill 1138, pertaining to defense plant and mobilization construction.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill (S. 1138) to continue the effectiveness of the act of July 17, 1953 (67 Stat. 177), as amended, providing certain construction and other authority.

Mr. JOHNSON of Texas. Mr. President, this bill was reported from the Committee on Armed Services, which is headed by the distinguished junior Senator from Georgia [Mr. RUSSELL]. The bill comes with the unanimous recommendation of all the members of the committee.

The purpose of the bill is to provide continuing statutory authority for the Secretaries of the military departments to expand and maintain productive capacity of an industrial type in order to meet military production requirements that are current or that would be created in the event of war. The bill proposes to extend the existing authority for this purpose until July 1, 1956, unless sooner terminated by a concurrent resolution of the Congress or by the termination of the present national emergency declared by the President on December 16, 1950.

The PRESIDING OFFICER. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1138) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the provisions of the act of July 17, 1953 (67 Stat. 177), as amended and extended by the act of July 26, 1954 (68 Stat. 531), shall remain in full force and effect until 6 months after the termination of the national emergency proclaimed by the President on December 16, 1950, or until such date as may be specified by a concurrent resolution of the Congress, or until July 1, 1956, whichever is earliest.

WAIVING OF REQUIREMENT OF PERFORMANCE AND PAYMENT BONDS IN CERTAIN COAST GUARD CONTRACTS

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 371, House bill 3885, which would waive the requirement of performance and payment bonds in connection with certain Coast Guard contracts.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill (H. R. 3885) to amend the act of April 29, 1941, to authorize the waiving of the requirement of performance and payment bonds in connection with certain Coast Guard contracts.

Mr. JOHNSON of Texas. Mr. President, this bill is substantially the same as Senate bill 1640, which was passed by the Senate during the closing days of the 83d Congress, but which did not receive action in the House of Representatives. Similar bills previously had been passed by the House of Representatives during the 81st and 82d Congresses, but had not been acted upon by the Senate.

The bill was recommended by the Secretary of the Treasury, and was concurred in by the then Comptroller General, the Honorable Lindsay Warren.

The bill involves no additional expense to the Government. It proposes to give the Secretary of the Treasury the same authority as that exercised by the Secretary of the Army and the Secretary of the Navy with respect to waiving the requirement of performance and payment bonds in connection with certain contracts—in this case, certain Coast Guard contracts.

The PRESIDING OFFICER. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H. R. 3885) was ordered to a third reading, read the third time, and passed.

AMENDMENTS TO RESERVE OFFICERS PERSONNEL ACT

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 372, Senate bill 1718, which provides amendments to the Reserve Officers Personnel Act. I invite the attention of my friend, the senior Senator from Maine [Mrs. SMITH], to this measure.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill (S. 1718) to provide certain clarifying and technical amendments to the Reserve Officer Personnel Act of 1954, which had been reported from the Committee on Armed Services, with an amendment, to strike out all after the enacting clause and insert:

That (a) the second sentence of section 201 of the Reserve Officer Personnel Act of 1954 is amended by striking out the word "two" and substituting in lieu thereof the word "three."

(b) Section 205 of such act is amended by inserting at the end thereof the following new subsection:

"(c) (1) A Reserve officer serving on active duty who, on the date he would otherwise be removed from active status under sections 325, 327, 411, 522, 524, or 611 of this act, is within 2 years of qualifying for retirement under either title II of the Army-Air Force Vitalization and Retirement Equalization Act of 1948 (62 Stat. 1084), or section 6 of Public Law 305, of the Seventy-ninth Congress (60 Stat. 27), may, in the discretion of the Secretary, be retained on active duty for a period not to exceed 2 years if he will then be entitled to the benefits of such provisions of law and will not earlier attain the maximum age at which transfer from an active status or discharge is required by this act. He shall not be removed from an active status so long as he remains on active duty.

"(2) The term 'maximum age' as used in this section shall, in the case of any officer covered by sections 325 and 327 hereof, be the age authorized by the first paragraph of section 326 (a) of this act."

(c) Section 339 (c) of such act is hereby repealed.

SEC. 2. Section 333 of the Reserve Officer Personnel Act of 1954 is amended (1) by striking out "A Reserve" and inserting in lieu thereof "(a) Except as provided in subsection (b) hereof, a Reserve", and (2) by

inserting at the end thereof the following new subsection:

"(b) A Reserve officer on active duty who has not completed his period of required active duty as a member of a reserve component under any provision of law or regulations, and who is recommended or found qualified for promotion, may not be promoted until he completes that period of required active duty, or until he is temporarily promoted to that higher grade. Upon completing that period of required active duty or upon being temporarily promoted to that higher grade, he shall, if he applies therefor, be promoted, be subject to subsection (a), and be credited with the amount of promotion service in the higher grade that he would have had if he had been promoted but for the provisions of this subsection."

SEC. 3. (a) Section 402 (d) of the Reserve Officer Personnel Act of 1954 is amended by striking out the period at the end thereof and inserting a comma and the following: "except that until July 1, 1960, each such number authorized in this section for each grade may, if necessary, be increased by not to exceed 10 per centum by the Secretary to permit promotions under this title."

(b) Section 403 of such act is amended by adding at the end thereof the following sentence: "Within the number to be selected which the Secretary may furnish to a selection board considering Naval Reserve line officers in any grade, the Secretary may further specify numbers of officers of stated qualifications and experience who are required to meet mobilization needs in the next higher grade."

(c) The second sentence of section 405 (b) of such act is amended by striking out "ineligible" and inserting in lieu thereof "eligible."

(d) Section 405 (d) of such act is amended by adding at the end thereof the following new sentence: "An officer whose name is so withheld from consideration from 2 selection boards for promotion to the same next higher grade shall be deemed to have failed twice of selection. An officer who has met all requirements for eligibility for consideration but whose name is omitted by administrative error from the list of officers furnished a selection board, shall be considered not to have failed of selection by that board and if selected by the next selection board to consider for promotion officers of the same grade he shall be entitled to the same date of rank and to pay and allowances of the higher grade for duty performed from the same date as if he had been selected by the board from which his name was withheld by error."

(e) Title IV of such act is amended by adding at the end thereof the following new section:

"SEC. 414. Officers who prior to July 1, 1955, were selected for promotion under appropriate Naval and Marine Corps regulations promulgated pursuant to subsection 216 (a) of the Armed Forces Reserve Act of 1952, as amended, may be promoted under the authority of this Act with precedence and entitlement to pay and allowances as prescribed by this act."

SEC. 4 (a) Section 501 (b) (1) of the Reserve Officer Personnel Act of 1954 is amended to read as follows:

"(1) 'Promotion service' means—

"(A) service in an active status in current grade; and

"(B) all service in an active status subsequent to June 25, 1950, and prior to the effective date of this act (i) during which an officer was eligible for permanent promotion on the basis of service in a higher temporary grade, (ii) in an equivalent or higher permanent grade in the same or another service, including service in a federally recognized commissioned status in the Army and Air National Guard, except that any such service authorized under this subparagraph shall be counted but once for promotion purposes."

(b) Section 502 of such act is amended by adding at the end thereof the following new subsection:

"(d) To carry out the provisions of this title a promotion may be made effective before, on, or after the date accomplished, and the officer shall be entitled to pay, allowance, and benefits authorized by law for the higher grade from such effective date unless expressly provided otherwise in this act."

(c) Section 504 (a) (2) (B) of such act is amended by striking out "longest service as a commissioned officer (including service in the federally recognized National Guard or in a federally recognized status therein prior to 1933)" and inserting in lieu thereof "greatest number of total years of service."

(d) Section 506 of such act is amended (1) by striking out subsection (a) thereof, and (2) by striking out "(b)" and inserting in lieu thereof "(a)".

(e) The last sentence of section 508 (c) of such act is amended by inserting after the word "sections" the following: "502 (d), 511 (c),".

(f) Section 509 of such act is amended (1) by striking out in subsection (a) thereof "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)", and (2) by adding at the end thereof the following new subsection:

"(c) Whenever the Secretary determines that there are vacancies in the permanent grade of first lieutenant, Reserve officers in the grade of second lieutenant under regulations prescribed by the Secretary, may be promoted to the permanent grade of first lieutenant before completion of 3 years of promotion service."

(g) Section 510 (b) of such act is amended by striking the period at the end of paragraph 2 thereof and inserting a semicolon and the following: "and

"(3) only those Reserve officers of the Air National Guard of the United States who must be considered at that time in accordance with the provisions of subsection (a) of this section."

(h) Section 511 of such act is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) Except as provided in subsection (c) hereof, a Reserve officer on active duty who is promoted to a grade higher than that in which he is serving shall continue to serve on active duty in the grade in which he was serving immediately before that promotion, and may be appointed in a temporary grade which is equal to that lower grade. An officer who is so appointed in a temporary grade is considered to have accepted the appointment upon the date of the orders announcing it unless he expressly declines it, and need not take a new oath of office upon being so appointed. However, he may decline the appointment within 6 months after the date of the order announcing it, and shall be released from active duty.

"(c) A Reserve officer on active duty who has not completed his period of required active duty as a member of a Reserve component under any provision of law or regulations, and who is recommended or found qualified for promotion, may not be promoted until he completes that period of required active duty, or until he is temporarily promoted to that higher grade. Upon completing that period of required active duty or upon being temporarily promoted to that higher grade, he shall, if he applies therefor, be promoted, be subject to subsection (b), and be credited with the amount of promotion service in the higher grade that he would have had if he had been promoted but for the provisions of this subsection.

"(d) A Reserve officer who, while he is serving on active duty, is promoted to a grade higher than the grade in which he is serving, may not serve on active duty in the grade to which promoted, or be entitled while on that period of active duty to the rank, pay, and allowances of that higher grade unless he is ordered to serve on active duty in that higher grade or is temporarily promoted to that higher grade."

(i) Section 523 of such act is amended (1) by striking out in subsections (a), (b), and (c), the words "date upon" wherever they appear therein and inserting in lieu thereof the words "last day of the month in," and (2) by striking out in the first sentence of subsection (d) the word "Each" and inserting in lieu thereof "Effective 5 years after the effective date of this act, each."

(j) Section 524 of such act is amended (1) by striking out in subsection (a) thereof "two years" and inserting in lieu thereof "five years," and (2) by striking out in the first sentence of subsections (b), (c), (d) (1), and (d) (2) thereof the word "Each" and inserting in lieu thereof "Effective 5 years after the effective date of this act, each."

(k) Title 5 of such act is amended by adding at the end thereof the following new sections:

"SEC. 527. Notwithstanding any other provision of this act, a Reserve officer who becomes a civilian employee of the Air National Guard prior to the effective date of this act may not, before attaining age sixty, while so employed and without his consent, be removed from active status by reason of any mandatory promotion provisions contained herein, except for cause, physical disability, or by reason of being twice passed over for promotion to the grade of captain, major, or lieutenant colonel.

"SEC. 528. Nothwithstanding section 701 of this act, the Secretary is authorized to take, prior to the effective date of this act, such administrative actions, including the convening of appropriate selection boards, as may be necessary to insure that the act may be implemented upon its effective date."

SEC. 5. (a) Section 606 (b) of the Reserve Officer Personnel Act is amended by adding at the end thereof the following new paragraph:

"(4) If a running mate is retarded in rate of promotion or has attained the highest rank to which he may be promoted, the new running mate shall be the officer of the Regular Coast Guard who is next senior to the old running mate, exclusive of extra numbers, or if there be no such Regular officer then the Regular officer of the same grade who is next eligible for promotion. An officer shall be considered to have been retarded when another officer in his grade junior to him is eligible for promotion ahead of him. If subsequently the old running mate is promoted and is restored to the precedence he would have held but for the retardation, he shall be reassigned as the running mate of the Reserve officer concerned."

(b) Section 608 of such act is amended by striking out "and shall be allowed the pay and allowances of the higher grade for duty performed from the date his running mate became entitled to such pay and allowances" and insert in lieu thereof "and a Reserve officer so promoted shall be allowed pay and allowances of the higher grade for duty performed from the date of his appointment thereto."

(c) Title 6 of such act is amended by adding at the end thereof the following new section:

"SEC. 619. Officers who, prior to July 1, 1955, were selected for promotion under appropriate regulations may be promoted under the authority of this act with precedence and entitlement to pay and allowances as prescribed by this act."

Mrs. SMITH of Maine. Mr. President, the purpose of Senate bill 1718 is to provide certain technical and clarifying

amendments to the Reserve Officer Personnel Act of 1954, now Public Law 773 of the 83d Congress. This statute provides for the first time, a statutory basis for the promotion and elimination of Reserve officers for the military services. Public Law 773, under its own terms, does not become effective until July 1, 1955. One of the reasons for delaying implementation of the act was to permit the presentation of technical amendments which normally would be expected in legislation of this type.

Senate bill 1718 does not alter the basic concepts now contained in the Reserve Officer Personnel Act. Each of the amendments, numbering some 25, will serve to improve the administration of this legislation and to extend additional guarantees to Reserve officers.

There is before each Member the report on this bill, No. 368, which contains an analysis of each section of Senate bill 1718.

Mr. President, I ask unanimous consent that the analysis be printed at this point in the body of the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ANALYSIS OF S. 1718

The most important features of the bill are as follows:

1. With regard to Reserve officers on active duty who are within 2 years of qualifying for retirement under certain statutes, the Secretaries of either of the military services are authorized to retain such officers on active duty for the 2-year period, if they should be otherwise eliminated because of failure of promotion or for length of total service and if they do not during the 2-year period reach the maximum age required for elimination.

On page 2 of the committee report which makes reference to present provisions of law relating to Regular officers who have completed 18 years of service, the report inadvertently uses the word "promotion" instead of "retirement." Regular officers under present law who complete 18 years of active service are permitted to complete 20 years of active service required for retirement.

2. With respect to Army Reserve officers, the bill provides that those with an obligated period of active duty will complete this service, despite the provision contained elsewhere in the statute providing that Reserve officers on active duty who are selected for promotion may be released if there is no place in the active establishment for them to serve in the higher grade.

3. The Secretary of the Navy is authorized to increase by 10 percent the numbers authorized in terms of percentages for Naval and Marine Corps Reserve officers. This authority would exist only until July 1, 1960. The purpose of this amendment is to assist in providing a fair promotion opportunity for those officers now in grades which may be in overstrength in these two reserve components.

4. S. 1718 provides that Naval and Marine Corps officers whose names were omitted by administrative error from consideration may be later considered on the same basis as if their names had not been omitted from the eligible list.

5. The bill contains validation provisions relating to the Navy, Air Force, and Coast Guard which provide that officers selected prior to July 1, 1955, may be prompted after the effective date of the act.

6. With respect to the definition of "promotion service" in the Air Force Reserve, the bill adds two categories which recognize certain duty prior to the effective date of the act and subsequent to July 25, 1950. The first would recognize as promotion service credit that period in which an officer served in a temporary grade higher than his permanent grade. It is already provided in the act that such service will be recognized beginning July 1, 1955. The bill also recognizes for promotion service purposes the period in which an Air Force Reserve officer spent in a permanent grade in another service.

7. The bill provides that Air Force Reserve officers who were inadvertently omitted from consideration, may be promoted and placed in the proper position on the promotion list. The bill further recognizes constructive service in the determination of seniority for promotion purposes.

8. The bill provides that second lieutenants in the Air Force Reserve may be promoted to first lietenants without completing 3 years of service in grade as presently required.

9. The committee adopted amendments suggested by the Air National Guard which would exclude Air National Guard officers from promotion consideration based on Air Force-wide Reserve vacancies.

10. The bill carries an amendment which would simplify the administration regarding those Reserve officers on active duty who are promoted in the Reserve but for whom there is no place in the active establishment for them to serve in the grade to which they were recommended. Under the bill, these officers will not have to make a positive election to remain on duty in the lower grade, but will be deemed to so desire unless they choose to be released within 6 months. The bill also contains in the Air Force title a provision similar to the one already noted in the Army title with respect to retaining on active duty Reserve officers with a period of obligated service.

11. The bill postpones for a period of 5 years after July 1, 1955, the effective date of the provisions in the Air Force title which provide for elimination from an active status of Reserve officers based on length of service.

12. The bill adds a new section to the Reserve Officers Personnel Act which provides that civilians who were employees of the Air National Guard prior to July 1, 1955, will be retained in an active status despite any mandatory promotion provisions of the present act.

Mr. President, the foregoing summarizes the provisions of S. 1718, and I urge that the Senate favorably consider this legislation.

Mrs. SMITH of Maine. Mr. President, I urge that the Senate take favorable action on this measure.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

RESEARCH IN THE DEVELOPMENT AND UTILIZATION OF SALINE WATERS

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 374, Senate bill 516, to amend the act relating to research in the development and utilization of saline waters.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill (S. 516) to amend the act of July 3, 1952, relating to research in the development and utilization of saline waters, which had been reported from the Committee on Interior and Insular Affairs with amendments.

Mr. JOHNSON of Texas. Mr. President, I call the bill to the attention of the Senator from New Mexico.

Mr. ANDERSON. Mr. President, I hope that at the proper time we may take up H. R. 2126, the corresponding House bill.

However, first, let me refer to the Senate bill. Senate bill 516 was introduced by the Senator from South Dakota [Mr. CASE]. The bill is designed to further the program involving the study of saline water which was begun several years ago. This time the committee voted to increase substantially the amount of money which would be authorized, because we seem to be coming somewhat closer to actually making it possible to develop potable water from sea water. If this can be done, it will solve some of the great problems we now confront in connection with the rights to irrigation water on streams, for example. It would be extremely helpful to the State of the able junior Senator from California [Mr. KUCHEL], where growing communities need constantly increasing supplies of water.

Only a few minutes ago the Senate passed a bill under which certain communities in Oklahoma will pay about 30 cents for a thousand gallons of water. As the result of the work which is being done, the cost of producing potable water from saline water has been brought down to a somewhat comparable figure. I do not say that it has reached that point yet, but it is somewhat comparable. Therefore, we felt that a great deal of good could be accomplished if this bill, providing larger sums, could be passed.

Mr. CASE of South Dakota. Mr. President——

Mr. ANDERSON. Let me add one further statement.

We also made provision for the expansion of the amount of money that can be used in Federal research, because, as chairman of the Joint Committee on Atomic Energy, I felt obligated to call to the attention of the Committee on Interior and Insular Affairs the fact that there was a similarity between certain research work now going on in connection with atomic energy and the work involved in this program. I thought the atomic research had a bearing on the bill of the able Senator from South Dakota. We therefore have suggested an increased amount, because I think it can be advantageously spent.

I am very happy now to yield to the author of the bill, who has done fine work in this field.

Mr. CASE of South Dakota. Mr. President, the distinguished Senator from New Mexico has been most helpful. I should say that he was the author of one of the three bills which were considered by the Congress in initiating the original legislation on this subject. He has had a keen appreciation of the purposes of this type of legislation throughout its history. He made a distinct contribution in the committee hearings a few days ago when he brought to the attention of the committee the fact that sim-

ilar problems concerning the recovery of water were involved in research being conducted by the Atomic Energy Commission, or under its auspices.

The original measure was passed a couple of years ago, and during the time the program has been in operation significant results have been obtained. It was my privilege to go to Boston, Mass., last summer immediately following adjournment of the Congress to see some of the experiments which were being carried on. Several Members of the House were there at the same time. We were all greatly encouraged. I believe that the progress which has been made in reducing the costs of the various processes which are under investigation is of great significance.

I may add that I have been surprised at the number of projects or approaches to this problem which have been uncovered. The imagination of the scientist and that of the manufacturer have been stimulated by the program. Research workers in various institutions and in private industry are going forward with various proposals. It is not necessary at this time to take the time of the Senate to recount them. Some reference to them will be found in the report of the committee. Members who are interested in the problem of the recovery of potable and usable water from brackish or saline waters are urged to read the testimony which was presented at the time of the hearings.

The House has passed a similar bill. At the proper stage I hope the Senator from New Mexico will make the motion—or I shall be happy to make it—to discharge the Committee on Interior and Insular Affairs from the further consideration of House bill 2126, so that it may be considered by the Senate and we may move to strike out all after the enacting clause and substitute the text of Senate bill 516, as reported from the committee, so that the bill may go to conference with the text of both bills before the conferees.

Mr. ANDERSON. Mr. President, I am happy to follow the suggestion made by the Senator from South Dakota.

Mr. CASE of South Dakota. Have the committee amendments been agreed to?

Mr. ANDERSON. I am told that I should proceed in this fashion.

The PRESIDING OFFICER. Without objection, the Committee on Interior and Insular Affairs will be discharged from further consideration of House bill 2126.

The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H. R. 2126) to amend the act of July 3, 1952, relating to research in the development and utilization of saline waters.

The PRESIDING OFFICER. Is there objection to the present consideration of the House bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ANDERSON. Mr. President, I move to strike out all after the enacting clause, and to insert in lieu thereof the language of Senate bill 516, as reported from the Committee on Interior and Insular Affairs.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico.

The motion was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H. R. 2126) was read the third time and passed, as follows:

Be it enacted, etc., That the act of July 3, 1952 (66 Stat. 328; 42 U. S. C., secs. 1951 ff.), is hereby amended as follows:

(1) By modifying subsection (a) of section 2 of said act so as to read: "by means of research grants and contracts as set forth in subsection (d) of this section and by use of the facilities of existing Federal scientific laboratories within the monetary limits set forth in section 8 of this act, to conduct research and technical development work, to make careful engineering studies to ascertain the lowest investment and operating costs, and to determine the best plant designs and conditions of operation."

(2) by modifying section 3 of said act to add the following: "Similarly, the fullest cooperation by and with the Atomic Energy Commission and the Civil Defense Administration in research and in determining the future needs of the Nation with respect to potable water and ways and means to provide same shall be carried out in the interest of achieving the objectives of the program."

(3) By modifying section 8 of said act so as to read: "There are authorized to be appropriated such sums, but not more than $10 million in all, as may be required (a) to carry out the provisions of this act during the fiscal years 1953 to 1963, inclusive, (b) to finance for not more than 2 years beyond the end of said period such grants, contracts, cooperative agreements, and studies as may theretofore have been undertaken pursuant to this act, and (c) during the same additional period plus 1 more year, to correlate, coordinate, and round out the results of studies and research undertaken pursuant to this act. Departmental expenses for direction of the program authorized by this act and for the correlation and coordination of information as provided in subsection (d) of its section 2 shall not exceed $1,500,000, and not less than $2,500,000 shall be expended for research and development in Federal or educational institution (State or private) laboratories. Both of said sums shall be scheduled for expenditure in equal annual amounts insofar as is practicable: *Provided*, That not to exceed 10 percent of the funds available in any one year for research and development may be expended in cooperation with public or private agencies in foreign countries in the development of processes useful to the program in the United States: *And provided further*, That contracts or agreements made in pursuance of this proviso shall provide that the results or information developed in connection therewith shall be available without cost to the program in the United States herein authorized."

Mr. ANDERSON. Mr. President, I ask unanimous consent that Senate bill 516 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, Senate bill 516 is indefinitely postponed.

WESTERN LAND BOUNDARY FENCE PROJECT

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 377, Senate bill 76.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 76) authorizing appropriations for the construction, operation, and maintenance of the western land boundary fence project, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to, and the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

Mr. KUCHEL. Mr. President, I wonder if we may have a brief explanation of the bill.

Mr. ANDERSON. Mr. President, this bill was reported by the distinguished junior Senator from Arizona [Mr. GOLDWATER]. The Senate passed a similar bill in the 83d Congress. The bill provides for the western portion of the boundary fence. It starts at El Paso and runs through to the California border.

For a long time this was proposed as a means of controlling immigration into the United States. It was not exactly necessary for that purpose at the time—not solely, at least. Recently there have been outbreaks of foot-and-mouth disease, which cannot be controlled by merely controlling the livestock, cows, and so forth, which may be grazing along the Mexican border. Ticks can be carried across the border by wild animals, such as deer and various other animals. Therefore the Department of Agriculture has now become very much interested in the passage of this proposed legislation, since it would permit not only control of domestic livestock, but control of wild animals crossing the border. Therefore the Senator from Arizona, the Senator from California [Mr. KUCHEL] and I have joined with others in suggesting again that the bill should be passed, and that an opportunity be afforded for the completion of this fence. The probability is that the Department of Agriculture will assume responsibility for it this time.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That there is authorized to be appropriated to the United States section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary for the construction, operation, and maintenance of the western land boundary fence project, as said project is presently planned or as the plans therefor may be amended from time to time.

SEC. 2. The said sums may be appropriated specifically for said project, or may be included with the appropriation for all construction projects of said United States section. The expenditures and appropriations herein authorized shall not be construed as placing a limitation on funds which may be hereafter appropriated for the operation and

maintenance of said project. The United States Commissioner, International Boundary and Water Commission, United States and Mexico, notwithstanding the provisions of section 3679 of the Revised Statutes (31 U. S. C. 665), sections 3732 and 3733 of the Revised Statutes (41 U. S. C. 11 and 12), or any other law, may enter into contracts beyond the amount actually appropriated for so much of the work on said project as the physical and orderly sequence of construction or considerations of expediting said work make necessary or desirable, such contracts to be subject to and dependent upon future appropriations by Congress: *Provided*, That the total construction cost of said project shall not exceed $3,500,000.

SEC. 3. Notwithstanding any contrary provisions of appropriation or other acts applicable to said project, the United States section is authorized to acquire by purchase, exercise of the power of eminent domain, or by donation any real or personal property which may be necessary for such project, as determined by the United States Commissioner, including rights-of-way not exceeding 60 feet in width, as may be necessary for such boundary fence and roads parallel thereto required for the patrol and maintenance thereof.

SEC. 4. Notwithstanding any contrary provisions of law, any executive department, independent establishment, or other agency of the United States is authorized to transfer to the United States section, without payment or reimbursement therefor, (a) any equipment, supplies, or materials which any of these agencies may have and which may be needed for the construction, repair, operation, or maintenance of such boundary fence project by the United States section; and (b) any existing fences, or portions thereof on or along the United States-Mexican boundary, which may be under the jurisdiction of such other Federal agency. The United States section is hereby authorized to expend, out of funds made available for boundary-fence construction, any sums of money which may be necessary for the reconstruction, repair, and operation and maintenance of boundary fences so transferred.

SEC. 5. The said United States Commissioner, in his discretion, is authorized to employ personnel for the survey, inspection, construction, and supervision of construction of such fence project without regard to personnel ceilings otherwise imposed, and without regard to the civil-service laws or regulations requiring the employment of American citizens: *Provided*, That such employment shall not be for a period longer than that required for the completion of construction of such fence project, nor in any event for a period in excess of 3 years from the effective date of this act.

SEC. 6. Said fence project may be constructed by contract or by force account, or partly by contract and partly by force account, in the discretion of the said United States Commissioner; and in either event the provisions of title 41, United States Code, section 5, and other laws and regulations relating to advertising for proposals for purchases and contracts for supplies or services for departments of the Government and laws and regulations placing limitations upon the purchase of passenger-carrying or other motor-propelled vehicles shall be inapplicable to purchases and contracts for equipment and supplies or services for the survey, construction, or supervision of said fence project.

SEC. 7. The opinion of the Attorney General in favor of the validity of the title to any tract of land or easement therein to be acquired for right-of-way for said fence project shall not be required as a condition precedent to construction thereon when, in the opinion of the said United States Commissioner, such requirement would unduly delay the construction program and the interests of the United States are not jeopardized by the waiver of such requirement: *Provided*, That proceedings for the acquisition of such tracts or easements therein by purchase, exercise of the power of eminent domain, or condemnation have been commenced, and the consent of the record or apparent owner or owners of any such tract has been secured for the immediate occupancy thereof, or appropriate orders have been entered therefor in eminent domain proceedings: *Provided further*, That the United States Commissioner shall proceed, as expeditiously as may be possible, to secure title to such tracts or easements therein in the manner and to the extent required for the approval of the Attorney General in accordance with existing law: *Provided further*, That where portions of such fence are to be built within the right-of-way lines of existing State, county, or other public roads or highways, the United States Commissioner is authorized to accept, and the Attorney General is authorized to approve, rights-of-way, easements, or licenses from any such State, county, or other public agency having jurisdiction thereover, subject to such conditions and limitations as may be required by State or municipal law or regulation, including, but not limited to, conditions requiring the removal of said fence, or portions thereof, to points outside of the right-of-way lines as may not be objectionable to the State, county, or other public agency concerned, where considerations of widening said roads or highways, or other considerations of public necessity, make such removal necessary, and when, in the opinion of the United States Commissioner, the interests of the United States will not thereby be unduly jeopardized. The opinion of the attorney general of the State wherein such rights-of-way, easements, or licenses are granted, if such opinion be obtained, shall be conclusive as to the right or authority of the State, county, or other public agency concerned, and of the officials thereof, to grant any such right-of-way, easement, or license.

PRESERVATION OF HISTORIC PROPERTIES, OBJECTS, AND BUILDINGS, BOSTON, MASS.

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 378, Senate Joint Resolution 6.

The PRESIDING OFFICER. The joint resolution will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A joint resolution (S. J. Res. 6) to provide for investigating the feasibility of establishing a coordinated local, State, and Federal program in the city of Boston, Mass., and general vicinity thereof, for the purpose of preserving the historic properties, objects, and buildings in that area.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 3, line 12, after the word "by", to insert "the"; in line 13, after the word "or", to strike out "the"; in the same line, after the word "Federal", to strike out "Government" and insert "governments"; on page 4, line 3, after the word "of" where it appears the second time, to strike out "1923" and insert "1949"; in line 16, after the figure "$40,000", to strike out "including printing and binding"; and in line 17, after the word "act" to insert a comma and "including printing and binding", so as to make the joint resolution read:

Resolved, etc., That a Commission is hereby created for the purpose of investigating the feasibility of establishing a coordinated program in which the Federal Government may cooperate with local and State governments and historical and patriotic societies for the preservation and appreciation by the public of the most important of the Colonial and Revolutionary properties in Boston and the general vicinity thereof which form outstanding examples of America's historical heritage.

SEC. 2. The Commission shall be known as the Boston National Historic Sites Commission, and shall be composed of 7 individuals, who shall serve without compensation, to be appointed as follows: 1 Member of the United States Senate, to be appointed by the President of the Senate; 1 Member of the United States House of Representatives, to be appointed by the Speaker of the House; 1 member to be appointed by the Secretary of the Interior; and 4 persons, at least 1 of whom shall be a resident of the city of Boston, to be appointed by the President of the United States. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

SEC. 3. The Commission shall meet for the purpose of organizing within 90 days after the enactment of this act. The Commission shall elect a Chairman and executive secretary from among its members.

SEC. 4. The Commission shall (a) make an inventory and study of the historic objects, sites, buildings, and other historic properties of Boston and the general vicinity thereof, including comparative real-estate costs; (b) prepare an analysis of the existing condition and state of care of such properties; (c) recommend such programs by the local, State, or Federal governments and cooperating societies for the future preservation, public use, and appreciation of such properties as the Commission shall consider to be in the public interest; and (d) prepare a report containing basic factual information relating to the foregoing and the recommendations of the Commission thereon. Such report shall be transmitted to the Congress by the Secretary of the Interior within 2 years following the approval of this act and the securing of appropriations for purposes hereof. Upon submission of the report to the Congress, the Commission shall cease to exist.

SEC. 5. (a) The Secretary of the Interior may appoint and fix the compensation, in accordance with the provisions of the civil-service laws and the Classification Act of 1949, as amended, of such experts, advisers, and other employees, and may make such expenditures, including expenditures for actual travel and subsistence expense of members, employees, and witnesses (not exceeding $15 for subsistence expense for any 1 person for any 1 calendar day), for personal services at the seat of government and elsewhere, and for printing and binding, as are necessary for the efficient execution of the functions, powers, and duties of the Commission under this act. The Commission is authorized to utilize voluntary and uncompensated services for the purposes of this act. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $40,000, to carry out the provisions of this act, including printing and binding.

(b) The Commission shall have the same privilege of free transmission of official mail matters as is granted by law to officers of the United States Government.

Mr. ANDERSON. Mr. President, this joint resolution was introduced by the senior Senator from Massachusetts [Mr. SALTONSTALL]. It authorizes the appointment of a commission to be known as the Boston National Historic Sites Commission, to be composed of seven individuals who are to serve without compensation. The duties of the Commission would be to make a study of the feasibility of establishing a coordinated local, State, and Federal program in the Boston area so as to preserve and protect the historic property, objects, and buildings in that vicinity.

The joint resolution is patterned after a bill which was passed not long ago with reference to New York City. It was carefully considered by the committee, and has been amended by some technical amendments which followed the recommendations of the Department of the Interior. Both the Department of the Interior and the Bureau of the Budget have endorsed the joint resolution, and we hope it will be passed.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The amendments were agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was amended, in the third paragraph after the word "as", where it appears the second time, to insert "at", so as to make the preamble read:

Whereas there are located within the city of Boston and vicinity a number of historic properties, buildings, sites, and objects of the colonial and Revolutionary period of American history which, because of their historical significance or their architectural merit, are of great importance to the Nation; and

Whereas at this critical period, as well as at all periods in our national life, the inspiration afforded by such prime examples of the American historical heritage and their interpretation is in the public interest; and

Whereas it is proper and desirable that the United States of America should cooperate in a program looking to the preservation and public use of these historic properties that are intimately associated with American colonial solidarity and the establishment of American independence.

The preamble, as amended, was agreed to.

ORDER FOR RECESS TO 10 A. M. TOMORROW

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that when the Senate concludes its business today it stand in recess until 10 o'clock a. m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATE, JUSTICE, JUDICIARY APPROPRIATIONS, 1956

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. R. 5502, the State, Justice, and Judiciary appropriation bill. I wish to state that we do not plan to have any debate or votes on the bill until next Tuesday. We merely desire that Senators may have adequate advance notice of the fact that this bill will be the next business before the Senate.

The PRESIDING OFFICER (Mr. McNAMARA in the chair). Is there objection to the request of the Senator from Texas?

There being no objection, the Senate proceeded to consider the bill (H. R. 5502), making appropriations for the State, Justice, and Judiciary Departments for 1956, which had been reported from the Committee on Appropriations, with amendments.

AZTEC LAND & CATTLE CO.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Order No. 373, S. 55.

The PRESIDING OFFICER (Mr. McNAMARA in the chair). The Secretary will state the bill by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 55) to authorize the acceptance on behalf of the United States of the conveyance and release by the Aztec Land & Cattle Co., Ltd., of its right, title, and interest in lands within the Cocconino and Sitgreaves National Forests, in the State of Arizona, and the payment to said company of the value of such lands, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments.

Mr. DOUGLAS. Mr. President, may we have an explanation of the bill?

Mr. HAYDEN. This proposed legislation is made necessary by a recent decision of the United States Supreme Court. Everyone in Arizona was surprised when the Supreme Court decided that the Aztec Land & Cattle Co. had title to the lands here involved. The original grant to the Atlantic & Pacific Railroad Co. was made by an act of Congress in 1866 which provided that alternate sections of land on each side of the right-of-way of the railroad running across New Mexico and Arizona to California should be 40 miles on each side of the track. The sections of land within the 40-mile limits that were granted were fixed and determined when the railroad company filed a map definitely locating the line of its tracks in 1872. The act further provided that if for any reason those sections were occupied, the grant could extend 50 miles.

In 1886 the Atlantic & Pacific Railroad Co. sold 1 million acres to the Aztec Land & Cattle Co. to be selected from alternate sections in Arizona and New Mexico, about 100,000 acres of which were included in a national forest by an Executive order of the President in 1891. It was assumed in Arizona that the Federal Government had title to 100,000 acres, but, to our surprise the Supreme Court decided not long ago that the title in the Aztec Land & Cattle Co. derived from the Atlantic & Pacific Railroad Co., was good. That is the situation today.

There is a valuable stand of timber on the land. The United States Forest Service made an estimate of its value which was fixed at approximately $7 million.

Mr. DOUGLAS. Seven million, four hundred thousand dollars.

Mr. HAYDEN. That is correct. The committee was willing to accept that figure, but legislation on the subject was not enacted during the last Congress. Since then the Forest Service has reduced its estimate. In the absence of an agreement between the Forest Service and the owners of the land, we thought the best procedure would be to have the values determined by a committee created under what is known as the Weeks Act. At the present time it consists of the Senator from New Hampshire [Mr. BRIDGES], the Senator from Mississippi [Mr. STENNIS], Representative COLMER, of Mississippi, and Representative COON, of Oregon, together with the Secretary of the Army, Mr. Stevens, the Secretary of the Interior, Mr. McKay, and the Secretary of Agriculture, Mr. Benson. We hope in that way to fix a price which the owners of the land will accept.

Mr. DOUGLAS. Will the Senator inform the Senate of his understanding as to the price which the Aztec Land Co. paid for the land?

Mr. HAYDEN. Oh, that was many years ago. I do not know the price originally paid for the title from the railroad company to the Aztec Land & Cattle Co. Does the Senator from New Mexico know the price?

Mr. ANDERSON. There was no price involved originally. It was scrip, which was issued originally for the building of the Atlantic & Pacific Railroad, which went from Albuquerque, N. Mex., to California, and subsequently was joined into the Santa Fe system. Since they did not file on the land, everyone assumed that the scrip was not going to be used in that connection. Finally they did make a filing on it, and of course the land became extremely valuable.

I wish to say to the Senator from Illinois that no one was more surprised than I was when the courts held that the Aztec Land & Cattle Co. had title.

The dangerous thing is that this particular section of the forest is going to be checkerboarded if the Aztec Land & Cattle Co. gets title. When I was Secretary of Agriculture, I had visited this area when the Forest Service was trying to set up a sustained-yield unit there. If a private company were to come in and checkerboard the area, we would have the same problem as that which developed in the Oregon and California land case, where there was a difference, in fact a serious quarrel between the Department of the Interior and the Department of Agriculture. Here we would have a private industry operating in the forest area.

I should like to say something about the amount involved. I tried to go into this subject very carefully. The value put on the property in the bill is, in my opinion, very conservative, because it will

carry with it the mineral rights. With the development of the uranium industry, people will be able to sell mineral rights in that area for fairly good sums of money, although there is now a feeling that the mineral rights are not too important. It strikes me that this may well result in paying off all the value that is in the land.

If we were able to accomplish the purchase at a figure which is somewhere in the neighborhood of that mentioned here, I believe it would be a good purchase. I believe the Forest Service estimates that the timberland plus the service is worth a little more than $5½ million now, and was worth formerly about $7½ million, the difference being due to the decrease in the stumpage value about a year or two ago.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. HAYDEN. I yield.

Mr. GOLDWATER. In further explanation, I think it would be proper to state in some detail how the figure of $7,400,000 was arrived at. I may say to the Senator from Illinois that that was the figure agreed on last year by the Forest Service and the Aztec Land & Cattle Co. However, we were unable to get the bill through the Senate or the House, and failed to accomplish anything.

Mr. ANDERSON. Mr. President, I think I was one of the reasons why it was impossible to get such a bill through Congress. I was hopeful that there might be some extra-legal remedy for the problem or the possibility of getting a different decision in the courts.

Mr. DOUGLAS. Was the recent decision a decision of the United States Supreme Court?

Mr. GOLDWATER. It was. The original grant of this land was made in 1866. As has been indicated, everyone in Arizona and New Mexico believed that the land was a part of the public domain and was under the supervision of the Forest Service. It was not until 1942 that application for patent was made, and the patent application was rejected by the Department of the Interior. Later, the Supreme Court ruled that the Aztec Land & Cattle Co. had title to the land.

To answer the question of the Senator from New Mexico further, the timber, of which there are 507 million board feet, is estimated to be worth an average of $9 a thousand. That is below the estimate made last year by the Forest Service and represents a complete revision of their estimate. The estimate last year was substantially close to the figure agreed upon. The figures are as follows:

Timber	$4,616,858
Land	479,225
Water (not included in total)	805,800
Hunting (not included in total)	400,000
Receipts	596,486
Total	5,692,569

Both my senior colleague and I have been endeavoring for the past 2½ years to straighten out this question. The reason why we went to the reservation commission was that, frankly, we had given up getting the two together by any other means.

Mr. ANDERSON. Mr. President, will the Senator from Arizona yield?

Mr. GOLDWATER. I yield.

Mr. ANDERSON. Is it not true that this bill would, for the first time, convey to the owners these mineral rights?

Mr. GOLDWATER. The Senator is correct.

Mr. ANDERSON. I am more interested in that than I am in the timber.

Mr. DOUGLAS. Mr. President, will the Senator from Arizona yield?

Mr. GOLDWATER. I yield.

Mr. DOUGLAS. I would say to the Senator from New Mexico and to the Senator from Arizona that I am sure they have exercised public spirit and caution in this matter. Of course I have not been able to give it a fraction of the study which they have necessarily given to it. I have heard, but I cannot vouch for the information, that the Aztec Co. paid only a few thousand dollars, and they will receive a windfall of millions of dollars. It may be that, because of the decision of the court, nothing can be done about it, but I must say that if my facts are correct, I find myself boiling at the idea of turning over this large amount of money to the Aztec Co.

Mr. GOLDWATER. We will join the Senator in the boil, but the fact remains that the Aztec Land & Cattle Co. has received title to those lands. The patents are now in their hands, and they can sell to the Federal Government or to anyone to whom they wish to sell.

Mr. DOUGLAS. Somewhere along the line someone has been delinquent.

Mr. GOLDWATER. I think, sir, it may have been the Aztec Land & Cattle Co., because they went from 1866 to 1942 and never requested patents for those lands.

Mr. ANDERSON. Mr. President, will the Senator from Arizona yield?

Mr. GOLDWATER. I yield.

Mr. ANDERSON. I think the situation is identical, but the result is exactly opposite, to the case of the individual who bought some scrip and tried to apply it to the so-called tidelands area. If he had succeeded, he would have made a tremendous profit by putting a small amount of money into scrip and then applying it to more valuable mineral lands. In his case the court went against him. In this particular instance, to the complete surprise of everyone, the court held that the Aztec company had absolutely good title. Anyone living in the Southwest could have picked up large quantities of Aztec Land & Cattle Co. stock for a tiny fraction of what it was worth. The Forest Service has been allowed to continue to administer the lands while an attempt has been made to solve the problem. What the Aztec company got, they got legally. I did not like it, and, as Senators know, I objected to the bill last year. But the fact remains that the company has a legal right and is in position to sell the timber and tear up the Coconino Forest and other national parks which some of us have for years been trying to protect. It would be the most tragic thing that could happen.

Mr. DOUGLAS. Taking the biblical statement that the sins of the fathers are visited upon the children, in this case they are visited upon the grandsons and the great grandsons, and we are now paying for the land grants made to railways by the Republicans after the Civil War.

Mr. GOLDWATER. I should like to reiterate what I said when the Senator from Illinois made a similar statement on another occasion, that if it had not been for those land grants Chicago would still be a very small place.

Mr. ANDERSON. Whether it be right or wrong, the Santa Fe Railroad came into my part of the country as the result of the early land grants. Anyone who has read the story knows that Mr. Holliday could never have succeeded with his program if he had not kept quoting the value of the land grants. If the scrip had not been applied to this particular stretch of forest land the scrip would have been practically valueless. I think the Aztec company paid very little for it.

Mr. DOUGLAS. Is it a fact that they paid only $4,000 for it?

Mr. ANDERSON. I have no knowledge of that. They took it in order to get grazing rights in the National Forest. No one ever dreamed they would end up with the timber in Coconino and Sitgraves National Parks.

Mr. DOUGLAS. I do not wish to refight the Civil War, but it is hard to believe that land which cost so little would produce so much.

Mr. ANDERSON. It is only a tiny fraction of the land the Santa Fe Railroad obtained in the States of California, New Mexico, and Arizona. This case arose because they were delinquent in what they did. They filed in sections in Valencia and McKinley Counties in New Mexico and across Arizona stretches.

They used up all the scrip, and then they realized that the land was not bringing them any revenue, and they were asked to pay taxes on it. At a later date they decided they would apply the scrip in some sections of Arizona. Everyone laughed at them. It was like a patent infringement suit filed by a safety razor manufacturing company. Everyone said the one who filed the suit would not get a cent, but he ended up in control of the company.

It will be a shameful thing if the Aztec Co. is allowed to sell that land and it goes back into private ownership.

I am not going to try to predict what the appraisers will do if the bill shall pass, but I believe that with the acquisition of mineral rights, with timber stands now worth $5 million and perhaps more, and with surface rights easily worth a million dollars, the price will not be exorbitant.

Mr. HAYDEN. Mr. President, will my colleague yield?

Mr. GOLDWATER. I yield.

Mr. HAYDEN. Mr. President, I should like to say that this is the second time Arizona has been surprised. A long time ago the Baca family surrendered to the United States a considerable tract of land near Las Vegas, N. Mex. They were entitled to select five tracts of non-

mineral land anywhere in the then Territory of New Mexico. One tract was selected in what is now Colorado, because New Mexico then extended up to the Arkansas River; 2 tracts in New Mexico, and 2 in Arizona..

They selected a tract near Nogales, Ariz., which was notoriously mineral. Everyone knew it, because there had been mining in that area for many years.

The General Land Office simply assumed that because of the mineral character of the land the grant was no good, and proceeded to issue patents in the Santa Cruz River Valley as though the grant did not exist.

The late Senator Joseph W. Bailey, of Texas, after he left the Senate, made an agreement with the heirs, or those who owned the grant, that if he could win a case in the Supreme Court, he would receive half of the proceeds. He won the case and received half.

There was nothing we could do except to enact legislation to the effect that where a man had a patent, he could get an equivalent area of land elsewhere in Arizona. No one ever dreamed that such a situation would arise.

The same is true of the Aztec Land & Cattle Co. We in Arizona believed for over 40 years that the company had no title until, to our surprise, the Supreme Court, for the second time, said that the title was good to these very valuable forest lands.

As the Senator from New Mexico has said, if a lumber company goes into an area and cuts all the timber on every other section, a terrific amount of damage can be done. Timber on such forest lands should be handled under a continuous-use program. That can be done and the Government can get its money back from the sale of timber.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. HAYDEN. I yield.

Mr. DOUGLAS. Will the Senator from Arizona express an opinion as to how many latent strike-it-rich programs the Government may sponsor in the future?

Mr. HAYDEN. I hope none of them will hit Arizona.

The PRESIDING OFFICER. The clerk will state the committee amendments.

The amendments of the Committee on Interior and Insular Affairs were, on page 2, after line 1, to strike out "Aztec Land and Cattle Co., Ltd., $7,409,263 as the value of such lands: *Provided*, That this amount shall be reduced by the value as determined by the Secretary of Agriculture of any of such lands classified as mineral: *And provided further*, That such amount shall be further reduced by such amount as may be determined by the Secretary of Agriculture in the event the value of such land is substantially affected by fire or other disaster" and insert in lieu thereof "Aztec Land and Cattle Co., Ltd., such amount as may be determined by the National Forest Reservation Commission, established pursuant to section 4 of the act of March 1, 1911, as amended (16 U. S. C. 513), to be the fair value of such lands: *Provided*, That such amount shall not be in excess of $7,409,263, including any and all mineral values."; and on page 3, line 23, after the word "status", to insert "to be subject to the same laws", so as to make the bill read:

Be it enacted, etc., That when the Aztec Land & Cattle Co., Ltd., shall have filed with the Secretary of the Interior in the manner prescribed by him an instrument of bargain, sale, and release of any right, title, and interest it may have in the lands described in section 2 of this act, the Secretary of the Treasury is authorized and directed to pay to the Aztec Land & Cattle Co., Ltd., such amount as may be determined by the National Forest Reservation Commission, established pursuant to section 4 of the act of March 1, 1911, as amended (16 U. S. C. 513), to be the fair value of such lands: *Provided*, That such amount shall not be in excess of $7,409,263, including any and all mineral values.

SEC. 2. The following-described areas, exclusive of tracts patented prior to the filing of the patent application for these lands:

ARIZONA, GILA, AND SALT RIVER MERIDIAN

Township 13 north, range 9 east, sections 5, 7, and 9.

Township 14 north, range 9 east, sections 1, 3, 5, 7, 9, 11, 13, 15. 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35.

Township 14 north, range 11 east, sections 33, east half; 35, southwest quarter (unsurveyed).

Township 13 north, range 12 east, sections 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35.

Township 14 north, range 12 east, sections 3, 5, 7, 9, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35.

Township 15 north, range 12 east, sections 31 and 33.

Township 13 north, range 13 east, sections 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35.

Township 14 north, range 13 east, sections 19, 21, 29, 31, and 33.

Township 13 north, range 14 east, sections 19, 21, 23, 25, 27, 29, 31, 33, and 35.

Township 13 north, range 15 east, sections 19, 21, 23, 25, 27, 29, 31, 33, and 35.

Township 12 north, range 16 east, sections 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35.

Township 12 north, range 17 east, sections 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35.

Township 10 north, range 20 east, sections 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, and 23.

Township 11 north, range 21 east, sections 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35.

SEC. 3. The lands described in section 2 of this act shall have national forest status to be subject to the same laws and be administered as part of the national forests in which they are located when the conditions as set forth in section 1 of this act have been met.

SEC. 4. There is hereby authorized to be appropriated such sums as are necessary to accomplish the purposes of this act.

The amendments were agreed to.

Mr. GOLDWATER. Mr. President, I ask unanimous consent to have printed at this point in the RECORD, three documents I have prepared with regard to Senate bill 55.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to authorize the acceptance on behalf of the United States of the conveyance and release by the Aztec Land & Cattle Co., Ltd., of its right, title, and interest in lands within the Coconino and Sitgreaves National Forests, in the State of Arizona, and the payment to said company of the value of such lands, and for other purposes.

This bill provides that when the Aztec Land & Cattle Co., Ltd., files with the Secretary of the Interior a release of all its interests to certain lands in Arizona, the Secretary of the Treasury is directed to pay to the company the value of the land and timber resources. Thereafter the lands would be administered as national forest lands.

Approximately 98,000 acres of land are covered by the bill. These lands were within the indemnity limits of a railroad grant made in 1866. However, these lands were not patented and in 1898 they were included within forest reserves and administered since that time as parts of national forests. In 1942 application for patent was filed under provisions of the Transportation Act of 1940 (49 U. S. C., 1946 ed., sec. 65). The patent application was rejected by the Department of the Interior, and the applicants thereupon commenced action in the courts. The courts ruled in favor of the applicants, and a petition for review of the case by the Supreme Court was not granted. Therefore, unless the bill becomes law and the Aztec Land & Cattle Co. agrees to release its interests to the United States, patent must issue to the company.

The lands affected are intermingled in a checkerboard arrangement with Forest Service lands. They are scattered over an area of approximately 560 square miles, rather than in a solid block and hence, pose difficult and unusual problems in relation to access roads, transportation of timber, administration, and operation. These lands are integral parts of two national forests. According to the report of the Department of Agriculture, United States Forest Service patenting of the lands will reduce the available timber cut under a sustained-yield basis from these 2 national forests by 14 percent, or by 15.2 million board feet per year. Of this amount, some 4.7 million board feet will be from the Flagstaff Federal sustained-yield unit, which supplies lumber mills at Flagstaff, Ariz. Other sustained-yield cuts in these national forests will be reduced by 34 percent if the lands are patented. Timber-using industries in or near Flagstaff and Winslow, Ariz., which now employ approximately 1,000 persons, will suffer a material reduction in the amount of timber available to them on a sustained basis which, in turn, will have a serious adverse effect on the entire economy of the area.

Furthermore, if the lands are patented to private individuals it is entirely probable that the timber thereon will be clear cut, which would cause irreparable damage to the watersheds of the Verde and Little Colorado Rivers. Generally, the soils in this area are quite erosible so that depletion of the vegetative cover would be injurious to these watersheds. To protect them, it is vitally necessary that uniform management practices of the Forest Service be continued.

Therefore, in order to protect both the economy of the area and to preserve the timber and other resources for the use and benefit of future generations, it is necessary that the Congress enact this legislation.

The first amendment is to authorize the National Forest Reservation Commission to determine the fair value of the lands involved, provided that the amount shall not exceed $7,409,263, including any and all mineral values. The committee adopted this amendment because of the fact that there is disagreement among the various Federal agencies as to what constitutes the fair value of the lands involved. It is believed that the Commission, if authorized by law, is the most appropriate agency to make final determination of the question of price within the limitation of $7,409,263.

The second amendment was suggested by a departmental witness in order to make certain that once the lands are conveyed to the Government, they will be classified as

public domain lands under the jurisdiction and administration of the Forest Service.

DEPARTMENT OF AGRICULTURE,
Washington, D. C., April 29, 1955.

Hon. BARRY GOLDWATER,
United States Senate.

DEAR SENATOR GOLDWATER: Reference is made to your request of April 22 that the Forest Service provide you with a statement of some administrative complexities that will be involved in managing the Aztec lands from the private owners' standpoint, and also what, if any, continuing responsibility the Forest Service may have.

Forest Service responsibility ceases completely the day title passes and any contractual relations the Forest Service may have with timber operators, stockmen, or other national forest users become null and void.

Expressed in the simplest terms, the Aztec Land and Cattle Co. will have the same rights and responsibilities on the lands for which they have acquired title as any other private owners of forest and range lands in Arizona. However, the problems involved in shifting responsibility for management of these lands from a public agency to a private owner will not be simple because of the patterns of public use which have been established and dependencies which have been built up during some 50 years of national forest administration. The problems will be particularly difficult because of the checkerboard ownership pattern.

The extent and nature of the problems that may be encountered will depend in large measure of course upon the administrative program the private owner elects to pursue. The following analysis is made upon the presumption that the owner or owners will attempt to utilize the resources of the lands, at least to the extent that they have been used while under national forest administration.

The problems as we visualize them are discussed under appropriate subject headings below:

BOUNDARIES

The problem of establishing accurately the boundaries of each parcel of private land is particularly acute in this case because of their intermingling throughout with national forest lands. The private land owners may need to establish and post the boundary lines around each tract of the private lands in connection with any authorized use that is made of them. For example, before timber is sold on a specific description the limits of the private land area should be established and ownership boundaries appropriately marked.

TIMBER

Preliminary to starting a timber-sale program on the Aztec property the owners will probably want to divide the property into logical tracts for operation in such a way that the greatest possible return will be received from the units of timber sold. This general operating plan logically should include a timber access road plan to insure that the road construction carried on in connection with the logging operation will be so performed as to economically serve all the timber on the lands in question. For greatest economy of operation, the development and use of roads should be coordinated with the road system which serves the national forest lands.

The owners of the Aztec property may want to give sufficient field study to each unit of timber (or timber and land) prepared for sale to satisfy themselves that their contracts will include adequate safeguards for the protection of the residual land and timber values. A contract form likewise will need to be developed and volume determinations made for the timber being proposed for sale. The volume determinations as a basis for payment can either be made by cruising in advance of sale or by measurement of the timber as it is cut. Timber evaluations will be needed as a guide to negotiations of timber sale contracts. As cutting progresses, administration of the contract will be needed to protect the owners' interest.

The timber stands on the Aztec lands will require constant observation and perhaps some expenditure for protection against insect and disease attacks. In recent years, considerable stumpage losses have occurred in the Aztec zone because of insect activity, particularly on the marginal timber sites. Heavy losses could occur at any time.

ROADS

Certain roads constructed under Forest Service supervision are in place on the Aztec lands and on adjoining national forest sections. We feel that it is desirable from the standpoint of both the Government and the owners of the Aztec properties or their contractors to negotiate equitable cost-sharing agreements to provide for maintenance of the roads which serve both Aztec and national forest lands for timber hauling purposes.

If purchasers of Aztec timber or other users of Aztec lands desire to construct roads across national forest lands, it would be necessary for them to arrange for right-of-way permits and to comply with the usual requirements for protection of the national forest lands.

As a basis for planning, timber harvesting, grazing, road construction, and other operations on the lands, accurate maps and perhaps aerial photos would be needed. These are available to the Forest Service and may be sold to the owners of the Aztec properties at cost.

RIGHTS-OF-WAY

There are many established roads on the Aztec lands and there will be a need to enter into appropriate agreements with the owners of the intermingled lands for crossing permits for such roads and any additional roads or similar facilities that might be required in the administration of the intermingled lands. Handling this type of business will require some time and effort on the part of the Aztec owners.

SPECIAL USES

There are now situated on the Aztec properties numerous facilities developed primarily in connection with the use of the range resources, such as livestock watering tanks, range fences, etc. A cemetery and a schoolhouse are also situated on the Aztec lands. Many of these facilities and improvements were covered by special use permits issued by the Forest Service, but they are no longer in effect. Users of these facilities will doubtlessly desire to continue the use. Aztec will be confronted with the problem of what to do about these various occupancy situations. They may want to cover them with formal leases. This is, in our view, a minor problem, but, being of considerable importance to the users, will require considerable administrative time and effort.

WILDLIFE

The administration of wildlife resources on the Aztec lands poses no particular problem unless the owners desire to attempt to recover some values from wildlife use, in which event they will be required to comply with Arizona law relative to legal advertising and posting of the boundaries. Having done this, they will be in a position to issue permits for hunting and to make charges therefor.

LIVESTOCK GRAZING

Because of the lack of boundary fences between national-forest and Aztec lands, the owners of the Aztec properties will be confronted with a special problem in selecting their grazing lessees. In States having open-range laws, as in Arizona, the burden is on the private landowner to keep livestock owned by others off his lands, whereas this is not true with reference to Federal lands. As to Federal lands, the burden is on the livestock owner to keep his livestock from trespassing on Federal lands. Except in limited instances, fencing of the boundaries of the Aztec lands would be entirely impractical because of the cost of the fencing itself and because of a dearth of stock water in the area in question.

Selection of grazing lessees on the private lands would have an important bearing on whether or not harmonious use of the intermingled Aztec and national forest lands could be established. A disregard for the present user, a lack of consideration for soil and forage resource, and failure to achieve coordinated administration would lead to immediate chaotic conditions. A serious trespass situation could arise, unless the permit or lease system is handled properly, causing serious difficulty among the stockmen and all landowners involved. In this case the Aztec owners can, of course, select their own lessees and prescribe the rates to be charged for the use of their forage. The Forest Service would continue to exercise the right to determine the number of livestock to be permitted on the national forest lands within each allotment. A cooperative agreement providing for the administration by the Forest Service of the joint livestock use within the safe grazing capacity might be worked out on an equitable cost-sharing basis.

FIRE PROTECTION

Transfer of title to the lands from the Federal Government to Aztec releases the Federal Government from its responsibility in the protection of these lands from fire.

Under Arizona law the owners of private lands are not required to protect their lands. However, the owner may be liable for suppression costs and damages to property of others resulting from fires carelessly or negligently caused by the owner's employees or agents. They may also be held responsible for damage to adjacent property resulting from other fires if such fires are allowed to spread from their lands to the property of others through negligence or carelessness.

Because of the timber values involved on the Aztec lands, the company will undoubtedly want to provide protection of the property from forest fires even though not required to do so by law. This could be accomplished through cooperative agreements with the Forest Service under which the company would pay the Forest Service for protecting their lands at a rate per acre equivalent to the cost to the Forest Service of protecting lands of similar character.

I trust that the foregoing will provide you with the information you desired. In the event that we can be of further assistance, please feel free to call upon us.

Sincerely yours,

E. L. PETERSON,
Assistant Secretary.

VALUATION APPRAISAL OF CERTAIN LANDS OF THE AZTEC LAND & CATTLE CO.

DESCRIPTION OF AREA

The lands referred to in S. 55, H. R. 2774, and H. R. 2787 of the 84th Congress include about 99,171 acres of lands within the exterior boundaries of the Coconino and Sitgreaves National Forests in Arizona. Being part of a land grant, the lands consist of odd-numbered sections and form a checkerboard pattern with intermingled national forest lands. They are suited principally to production of timber, water, forage for domestic livestock, and hunting. About 68,000 acres of the lands bear merchantable sawtimber which is now operable and about 5,500 acres bear presently inoperable sawtimber. The remaining acreage is largely woodland and grassland suitable for watershed management and grazing use. The timbered area also produces forage and is

grazed by about 62 commercial sheep and cattle operations which are under Forest Service permit on the lands.

Elevations range from 6,000 to 7,500 feet and topography is generally rough. The lands drain into tributaries of the Colorado and Salt Rivers. That portion of the area which drains into tributaries of the Salt River supplies water of high value for the large, irrigated Salt River Valley in central Arizona surrounding Phoenix.

The lands in question are within the indemnity limits of a land grant made to the Atlantic & Pacific Railroad Co. (now the Santa Fe Railroad Co.) by an act of July 27, 1866. In 1898 they were included within the forest reserves (now national forests) and ever since have been administered as parts of the national forests. On June 26, 1942, the Santa Fe Railroad Co. and the Aztec Land & Cattle Co., Ltd., filed with the Department of the Interior an application for patent pursuant to the grant to the railroad company. The application was based upon the fact that the railroad company had, in 1886, contracted to sell to the Aztec Land & Cattle Co., Ltd., about 1 million acres of land at 50 cents per acre, including the lands in question. In 1905, the railroad company quitclaimed these and other lands to the Aztec Land & Cattle Co., Ltd. The application for patent was therefore filed under the innocent purchaser provision of the Transportation Act of 1940.

The patent application was rejected by the Department of the Interior and the applicants thereupon commenced action in the courts, requesting a writ directing the Secretary of the Interior to proceed to determine the right of the railroad company and the Aztec Land & Cattle Co. to have patented to them the lands in question. The courts ruled in favor of the applicants and a petition for review of the case by the Supreme Court was not granted. Issuance of patent to the Aztec Land & Cattle Co., Ltd., is now underway.

VALUES CONSIDERED IN APPRAISING THE LANDS

In appraising these lands, a monetary estimate was developed for the timber, forage water, and hunting values. The lands have certain other important values which are not susceptible to a monetary appraisal. These include recreational values other than hunting, and a degree of community and individual dependency on the products from the lands, especially timber. Under private ownership, timber would be liquidated, due to slow growing conditions in the Southwest. Under Forest Service management, it would be managed on sustained yield in perpetuity. Timber values were determined in accordance with standard Forest Service timber appraisal methods and are an estimate of the fair market value of the timber if offered for sale on the open market. Land values which include forage, residual timber, and any other intrinsic values are based upon payments for similar land in the area as determined from county records. Thus land values are based on transaction evidence. Water values are related to the surface and subsurface yield of water from the lands and the value of such water for irrigation, domestic, and industrial use in the Salt River Valley and on the Little Colorado River. Hunting values are based upon the kill of deer and elk in the area. Receipts are the fees received by the Government for the use of the lands since June 26, 1942—the date the application for patent was first filed. Following is a summary of the values developed in more detail in subsequent sections:

Timber	$4,616,858
Land	479,225
Water (not included in total)	805,800
Hunting (not included in total)	400,000
Receipts	596,486
Total	5,692,569

If the water value is included, the total appraised value would be $6,498,369. The water value is conservative for several reasons, and represents only the difference in the value of water if the lands remain in or are restored to Government ownership. The capital value of the annual water yield from the lands under Government ownership is estimated to be $4,664,700, the value under private liquidation cutting $3,858,900; and the difference of $805,800 is the amount included in the above summary. Although the hunting values are estimated to have a capital value of $400,000, no amount is included in the above summary because it is believed the value of the land for hunting may be as high in private as in Government ownership.

TIMBER VALUES

The appraisal of timber values on any tract is made by estimating the volume of merchantable timber on the tract and multiplying the volume by an average price per thousand board feet. Thus, a timber appraisal depends on two key factors: (1) estimation of timber volume, and (2) average value per thousand board feet.

Estimate of timber volume

The basis of the timber volume estimate is a timber cruise made in 1952. The cruise was based on aerial photographs which were used to map out the various stand conditions, and for each stand condition samples were taken of the volume of timber 12 inches in diameter and up. The timber volume estimate from this cruise had a sampling accuracy (plus or minus one standard error) of 3.78 percent.

The 1952 cruise showed an estimated timber volume of 522,872,000 board feet. To this is added the estimated volume of 378,000 board feet of operable timber on the unsurveyed area of 480 acres in Sections 33 and 35, T. 14 N., R. 11 E, making a total of 523,250,000 board feet. This volume has been reduced by two items: (1) the amount of timber cut in the 2-year period January 1, 1953 to January 1, 1955, and (2) the volume of timber on the section determined to be mineralized by the Bureau of Land Management. This is section 13, T. 14 N., R. 9 E.

The adjusted timber volume as of January 1, 1955, is 507,561,896 board feet. In addition, there is an estimated 29 million board feet which is considered inoperable at the present time, but 24,400,000 board feet of which might be cut during a period of private liquidation. Table 1 summarizes the volume estimates.

The Forest Service estimate of 523,250,000 board feet as of January 1, 1953 is more conservative than the estimate of 554,969,000 board feet made in late 1952 by the private firm of C. D. Schultz & Co., of Seattle, Wash., and Vancouver, British Columbia.

Average value per thousand board feet

The average value of the 507 million board feet of timber is estimated to be worth $9.00 per thousand board feet as of January 1, 1955, assuming that the timber on the Aztec lands will be liquidated over a 10-year period. In addition, the 24.4 million board feet of presently inoperable timber is assigned a speculative value of $2 per thousand board feet.

Following is a summary of the manner in which the $9 per thousand estimate was arrived at:

1. Lumber selling price (lumber tally)	$82.51
2. Adjustment to convert to log scale (10 percent overrun)	8.25
3. Lumber selling price, log scale	90.76
4. Logging costs, log scale	23.02
5. Manufacturing costs, and plant and equipment depreciation	44.26
6. Total costs of production (line 4 plus line 5)	67.28
7. Selling price less production costs (line 3 minus line 6)	23.48
8. Allowance for profit and ordinary business risk (12 percent of production cost plus stumpage)	9.73
9. Cost of property administration	.50
10. Stumpage value if all timber were cut immediately (line 7 less lines 8 and 9)	13.25
11. Stumpage value discounted at 3 percent for 10-year liquidation period	11.30
12. Stumpage value after an additional 20 percent discount for added risk due to 10-year period of liquidation	9.04
13. Rounded-off average value per thousand board feet Jan. 1, 1955	9.00

Lumber selling prices (lines 1, 2, and 3) used in this appraisal are based on the average selling price of lumber by grade for the last 8 months of 1954, from six major sawmills[1] in the general area, applied to the percentage of lumber grade recovery experienced by these mills in 1953. The volume of cut on which the selling price computations are based is 120 million board feet, or about 45 percent of the cut of national-forest timber in Arizona and New Mexico in 1954.

Logging costs (line 4) are the average actual costs of four major operations in the general area of the Aztec timber during the last 8 months of 1954, adjusted upward to fit the logging conditions for the Aztec timber. The volume of timber on which the logging cost is based is 102 million feet, or about 38 percent of the national-forest cut in Arizona and New Mexico in 1954. Table 2 summarizes the itemized logging costs for both a 100-percent liquidation cut and comparable costs if 35 percent of the timber were sold under a Forest Service sustained-yield operation.

Manufacturing costs and depreciation figures (line 5) used in this appraisal are based on averages from seven operations during 1953 in the general vicinity of the Aztec timber lands, which cut about 165 million board feet or roughly two-thirds of the national-forest cut in Arizona and New Mexico in 1954. Manufacturing costs for 1954 are not available, but there has been no signifiant change since 1953. Table 3 itemizes the manufacturing costs.

The allowance for profit and an ordinary business risk was calculated at 12 percent of the total operating costs of logging, manufacturing and stumpage (line 8). This is the allowance currently being used in appraising national-forest timber for sale in the Southwest.

There is also deducted from the value of the stumpage 50 cents per thousand board feet to cover the owner's costs of administering the property, including such items as contract negotiations, cruising, surveying property boundary lines, and checking for contract compliance (line 9).

Under a liquidation operation, it appears unreasonable to assume that all of the merchantable timber would be cut in a shorter period than 10 years. Consequently the value of the timber at the time cut needs to be discounted to the present to determine a present worth. The present worth of a series of equal annual stumpage payments of $13.25 per thousand discounted at 3 per-

[1] Southwest Lumber Mills at Flagstaff, McNary, and Heber; Nagel Lumber & Timber Co. and Winslow Timber Co., both at Winslow; and Duke City Lumber Co., Albuquerque.

cent for 10 years is $11.30, as shown in line 11.

This amount is further reduced by 20 percent for ownership risks (in addition to ordinary business risk) due to extending the liquidation over a 10-year period. These risks include such things as fire, insect attacks, wind, market fluctuations, accuracy of estimates, risks of marketing and other risks of ownership. The reduction for this risk is shown in line 12, and the rounded-off average value of the timber per thousand board feet is shown as $9 in line 13.

Question may be raised as to why the stumpage value of the Aztec timber is appraised at $13.25 before discounting in this instance, whereas if 35 percent of the volume were being sold by the Forest Service under sustained-yield management the average value per thousand would be $10.95 (table 4).[2] The reason for this difference in value per thousand board feet is due to the fact that logging costs under Forest Service sustained-yield operations average $2.83 more per thousand than would logging costs on a private 100 percent liquidation cut, as shown in table 2. The additional Forest Service costs are:

	Per thousand
Road construction	$0.48
Slash disposal	1.55
Erosion control	0.25
Snag felling	0.55
Total	2.83

The same total road construction costs would be required to log 100 percent of the timber or to log 35 percent of the volume. Under the 100 percent cut the road costs are prorated against all of the timber whereas under the 35-percent cut they are prorated against that volume and against an equal volume of other Forest Service timber on intermingled sections. The net result is a slightly higher road cost per thousand under Forest Service operations.

The items for slash disposal, erosion control and snag felling are Forest Service requirements necessary to leave the land in productive condition in order to protect the residual stand and to encourage regeneration. These items are not ordinarly carried out on a private liquidation cut, and there are no requirements under Arizona State law that these things be done. Therefore, presumably they would not be carried out except under Forest Service operations. These additional cost items may in a sense be considered an investment in the land for the future, which reduces the present value of the stumpage slightly.

Actually, however, when discounting is considered, the Forest Service is appraising this timber for purchase at $9 per thousand board feet and would sell it at $10.95 per thousand.

Total timber values

Based on the volume and average value per thousand board feet as developed in the two preceding sections, following is the determination of the fair market value of the timber on the Aztec lands:

507,562,000 board feet at $9 per thousand	$4,568,058
24,400,000 board feet at $2 per thousand	48,800
Total timber value	4,616,858

LAND VALUES

The total area covered by the Aztec claim is 99,170.83 acres. This area is reduced by 2,685.49 acres which had been patented prior to filing of the claim, and by another 640 acres which the Bureau of Land Management has indicated are mineralized and thus exempted from the court decision. Thus the total acreage to be considered in the appraisal is 95,845.34 acres.

An estimated average value of $5 per acre applied to the above acreage indicates a land value of $479,225.

In arriving at an estimated value of $5 per acre, consideration was given to the following:

1. From 1947 through 1953, county records revealed that 3,727 acres were bought and sold in 11 small private transactions of generally comparable land in the general vicinity of the Aztec claim. The average per acre value of these transactions was $20.07.

2. In 1949 the Aztec Co. sold in 3 transactions in the general area a total of 70,646 acres, at an average price of $5.51 per acre.

3. In 1954 the Aztec Co. sold in the general vicinity 6,400 acres at $15.62 per acre. This and the above-cited transactions prices did not include values for sawtimber.

4. In addition to the forage value on these lands, it is estimated that there will be a residual stand of timber even after liquidation cutting of approximately 45,000 cords, two-thirds of which will be in timber 8 to 11 inches in diameter and one-third in timber 4 to 7 inches in diameter.

The estimated land value of $5 per acre thus covers the forage value and the residual stand of timber to which no specific value is assigned despite the existence of a pulp mill at Flagstaff. Based on private transactions in the general vicinity, it is believed to be a conservative estimate.

WATER VALUES

The Aztec lands in question lie in an area of relatively high precipitation for Arizona (20–25 inches annually) and at the headwaters of the Little Colorado and Salt Rivers. The surface drainage from most of the Aztec lands is north to the Little Colorado River, but the lands lie just north of the Mogollon escarpment, and hydrologists estimate that the ground-water divide along the Mogollon escarpment is 10 to 30 miles north of the surface-water divide. Therefore, the subsurface flow from all of the Aztec lands is believed to be south to the Tonto and Verde drainages which flow into the Salt River. The water finds its way downward through the Kaibab limestone and Coconino sandstone formations and emerges in springs along the Mogollon escarpment.

The physical characteristics of limestone soils are such that when vegetative cover is reduced the surface soil tends to seal up. This reduces the infiltration rate and subsurface flow and increases the surface flow. Under Forest Service sustained-yield management, a stand of pine timber would be retained at all times and the heavy needle fall would provide adequate organic material to maintain a high infiltration rate. But under private liquidation cutting the infiltration rate will be reduced with resulting increased erosion and surface runoff, and reduced subsurface flow.

Thus, under public ownership and management, there will be more subsurface water yield and consequently more water going into the Salt River than under private liquidation cutting.

Following is a summary of the annual value of the Aztec lands for water under the alternatives of (a) Forest Service sustained yield management, and (b) private liquidation cutting. The detailed computations are shown in appendix A.

Appendix A

Drainage	Under Forest Service sustained-yield management			Under private liquidation		
	Acre-feet of water	Rate per acre-foot	Total value	Acre-feet of water	Rate per acre-foot	Total value
Little Colorado River	14,400	$1.00	$14,400	16,200	$1.00	$16,200
Salt River	8,700	14.43	125,541	6,900	14.43	99,567
Total	23,100		139,941	23,100		115,767

The difference in water value under the two alternative ownerships is thus shown to be $24,174 a year. Capitalized at 3 percent, this indicates that the differential water value is $805,800.

HUNTING VALUES

In addition to hunting, which is the principal recreational use of the Aztec lands, it is estimated that there are about 2,000 recreation visitors, including campers, picnickers and hikers through the area annually. However, there are no developed recreational areas on the land.

Based on the annual kill of elk and deer in the area, the number of hunters per killed animal and the average expenditure for hunter, it is estimated that an average of 63 cents per acre is spent by hunters in the area annually, or approximately $60,000 on the Aztec lands. If one-fifth of this gross expenditure is considered net income, the capitalized value of the Aztec lands for hunting is $400,000—or about $4 per acre. This figure makes no allowance for the value of turkey hunting.

Although there are some uncertainties as to how the lands might be made available for hunting if in private ownership; and thus there are certain intrinsic values from the hunting standpoint in retaining them in public ownership, it is believed that the alternate section pattern of the lands is such that they probably would continue to be made available to public hunting. Also, it is believed that clear-cutting of the lands would not substantially affect in an adverse way the deer and elk population. Therefore, in order to be conservative, no differential value for hunting or other recreation is assumed, and these values are not included in the amount which the United States might pay for these lands.

RECEIPTS FROM AZTEC LANDS

Receipts from the Aztec-claimed-lands from June 26, 1942 (the date when the application for patent was first filed), to January 21, 1955 (the date of this appraisal), totaled $596,485.66. This does not include receipts from the mineralized section of $281.39.

VALUATION OF THE MINERALIZED SECTION

This section is No. 13, T. 14 N., R. 9 E., and totals a full 640 acres. It is not included in the appraisal, but its value is shown as a matter of interest as follows:

Timber, 6,832,000 board feet, at $9 per thousand	$61,488.00
Land, 640 acres, at $5 per acre	3,200.00
Receipts from mineralized section	281.39
Total	64,969.39

No differential water value is attributed to the mineralized section because the section lies entirely in the Salt River drainage, and both surface and subsurface water flows to the Salt River. Thus, regardless of whether the land were under sustained-yield management or subjected to a liquidation cut, the total water yield would go to the Salt River.

[2] This checks closely with the $10.46 which is the average price per thousand of timber actually cut from Aztec lands January 1, 1953 to January 1, 1955.

COMPARISON OF 1954 AND 1955 APPRAISALS

The only official appraisal of the Aztec lands heretofore made by the Forest Service was contained in Secretary Benson's letter of May 6, 1954, to Senator DWORSHAK, as chairman of the Subcommittee on Public Lands of the Committee on Interior and Insular Affairs. The appraisal submitted to the Senate in 1954 was begun in 1953, and based on 1952 data. Following is a comparison of the key items in the 1954 and the current (1955) appraisals:

Item	1954	1955
Volume of timber	522,872,000 board-feet	507,562,000 board-feet.
Lumber selling price per thousand (log scale).	$101.59	$90.76.
Value of timber per thousand board-feet.	$12.20	$9.
Total value of timber	$6,427,838	$4,616,858.
Value of land	$482,425	$479,225.
Value of water	Not appraised	$805,800.
Value of hunting	do	$400,000, but not included in total.
Receipts	$499,000	$596,486.
Value of mineralized section	Included but not figured separately.	$64,969, but not included in total.
Total value	$7,409,263	$5,692,589 or $6,498,369, depending on whether the water value is excluded or included in total.

The main reasons for the differences in the total appraised value are as follows:

1. The average stumpage value of timber per thousand board-feet was $3.20 less in the current appraisal. This is due to a lower average selling price, log scale, of $10.83 per thousand as the result of a decline in the lumber market between the two appraisals. The total production costs were also lowered by $5.08 per thousand but this was not enough to offset the much larger decrease in selling price.

2. The value of the land is slightly less in the current appraisal due to the elimination of the mineralized section. The total value of the mineralized section of nearly $65,000 is eliminated from the present appraisal.

CONSERVATIVE ASPECTS OF PRESENT APPRAISAL

The present appraisal consists of the fair market value of the timber and land as of January 1955, and the receipts which are due the company. The value in the current appraisal is approximately $1,717,000 less than the appraised value in 1954, if a water value of $805,800 is excluded. Even if a water value were included, the current appraisal underruns the last appraisal by $911,000. This reduced value is due to market fluctuation in the price of lumber and the removal of 640 acres of land and timber. It is possible that at some subsequent date the price of lumber may be as high or higher than that used in the 1954 appraisal, with the appraised value back to or even above the 1954 figure. Today the Aztec land and timber is appraised at $5,692,589 but this estimate is conservative for the following reasons:

1. The long-range trend of timber values has been upward. Since 1945 the stumpage price received by the Forest Service for ponderosa pine in Arizona and New Mexico has more than doubled. With the supply of old-growth ponderosa pine decreasing, and demand holding firmer or increasing, it is reasonable that the price will continue to increase. The appraised price is therefore conservative, as it is based on the present market and not on continued upward trend in stumpage prices.

2. The capital value of the land of $400,000 for hunting is not included.

3. The differential water value of $805,800 is not included, and even if included represents only part of the total value of the land for water.

4. No specific valuation is given to some 45,000 cords of pole timber which would be left on the land even under liquidation cutting. There is a small pulp mill at Flagstaff and if there were further pulp development, this timber could well have an immediate market value.

5. The road construction costs may be too high, as all of the needed road construction is figured against the Aztec timber. It is quite probable that an owner of the Aztec timber might cooperate with the Government in the construction of the main access roads with the Forest Service and Aztec timber bearing its proportionate share of the cost. This would increase the value of the Aztec timber.

6. No value has been assigned to the improvements now on the Aztec lands. The movable improvements include the Dutch Joe lookout tower and cabin and administrative improvements on the Chevalon administrative site. To move these improvements and reerect on Government land will cost the Government an estimated $15,000.

7. No value has been placed on net timber growth that may accrue during the period of liquidation and since the volume estimate. The net volume of growth is estimated at 16 million board-feet and at $9 per thousand the value is $144,000.

TABLE 1.—*Estimate of timber volumes, Aztec timberlands, by units, Jan. 1, 1953, and Jan. 1, 1955*

[Board feet]

Unit	Cruised volume Jan. 1, 1953	Estimated volume of unsurveyed area	Volume cut Jan. 1, 1953, to Jan. 1, 1955	Deduct volume mineralized section	Volume, Jan. 1, 1955
Pinedale	17,631,000		311,850		17,319,150
Heber	85,200,370		911,890		84,288,480
Chevelon	111,006,190		7,632,510		103,373,680
Leonard	120,919,800				120,919,800
Buck Springs	89,774,650				89,774,650
Jacks Canyon	9,965,870				9,965,870
Long Valley	70,448,430			6,832,384	63,616,046
Toms Creek	17,926,220				17,926,220
Unsurveyed area (480 acres)		378,000			378,000
Total	522,872,530	378,000	8,856,250	6,832,384	507,561,896
Inoperable (speculative volume)					24,400,000

TABLE 2.—*Estimated logging costs,[1] Aztec timberlands, under both a 100-percent private liquidation cut and a 35-percent Foreign Service sustained-yield cut*

[Cost per thousand board-feet]

Items	35 percent volume cut Forest Service operation	100 percent cut private liquidation
Felling and bucking	$4.27	$4.27
Yarding	3.00	3.00
Decking at mill	.46	.46
Loading on trucks	1.50	1.50
Unloading at mill	.28	.28
Logging general expense	2.13	2.13
Road construction	1.66	1.18
Road maintenance	.80	.80
Transportation	9.40	9.40
Slash disposal	1.55	
Erosion control	.25	
Snag felling	.55	
Total	25.85	23.02

[1] Based on costs from Southwest Lumber Mills at Flagstaff, McNary, and Heber, and the Nagel Lumber & Timber Co. at Winslow.

TABLE 3.—*Average manufacturing costs (1953) used in the Aztec timber appraisal*[1]

	Cost per thousand board-feet
Sawing (pond to green chain)	$9.06
Pull, sort, and load on trucks	.47
Haul lumber to planer	.81
Pull, sort, and stack in yard	2.69
Unload trucks and stack in yard	.20
Dry yard expense	2.35
Planing mill	4.81
Shipping	1.94
General expense	7.24
Selling expense	5.87
Total cost, lumber tally	35.44
Overrun 10 percent	3.54
Total cost, log scale	39.98
Equipment and plant depreciation, log scale	5.28
Total	44.26

[1] Based on costs from Southwest Lumber Mills at Flagstaff, McNary, and Heber; Winslow Timber Co., Winslow; Nagel Lumber & Timber Co., Winslow; Duke City Lumber Co., Albuquerque; and Whiting Bros., Winslow.

TABLE 4.—*Value of Aztec timber per thousand board-feet under Forest Service sustained yield management*

	Per thousand board-feet
Lumber selling price (lumber tally)	$82.51
Adjustment to convert to log-scale measurement (10 percent overrun)	8.25
Selling price, log scale	90.76
Logging cost, log scale	25.85
Manufacturing cost and plant and equipment depreciation, log scale	44.26
Total costs of production	70.11
Selling price, less production cost	20.65
Allowance for profit and ordinary business risks (12 percent of production costs and stumpage)	9.70
Stumpage value (line 7 minus line 8)	10.95

APPENDIX A

VALUATION OF WATER

1. Water yields:

Average annual precipitation, 20–25 inches.

Average annual water yield, 0.241 acre-foot per acre.

Annual water yield for Aztec lands (95,845 acres by 0.241), 23,100 acre-feet.

	Under Forest Service sustained-yield management	Under private liquidation
Annual yield to Little Colorado drainage	[1] 14,400	[1] 16,200
Yield to Salt River drainage	[2] 2,400	[2] 2,700
	[3] 6,300	[3] 4,200
Total to Salt River	[1] 8,700	[1] 6,900

[1] Acre-feet.
[2] Surface acre-feet.
[3] Subsurface acre-feet.

2. Estimated value of water per acre-feet:

(1) Salt River drainage:

	Per acre foot
(a) Cost value of water:	
94.5 percent used for agriculture at $4.34 per acre-feet	$4.10
5.5 percent for municipal and industrial use at $18 per acre-feet	.99
Total	5.09
(b) Additional water values:	
All water is used for power at	5.23
Water value capitalized into land value (94.5 percent of $4.35)	4.11
Total water value	14.43

The value of the water capitalized into the land value itemized in the above listing for Salt River water values as $4.11 per acre foot was derived as follows:

	Per acre
Average value of irrigated land without improvements	$750
Average value of nonirrigated land without improvements	25
Difference in land value due to irrigation	$725

The net land income annually from this differential value of $725 per acre at 3 percent is $21.75 per acre. This may be fairly attributed to the fact that water is available for this land. The value of water of $4.34 per acre-foot under the Salt River tabulation above on "cost value of water" is a cost of production value only, since the Salt River Valley Water Users Association is a nonprofit organization. Since irrigated land requires an average of 5 acre-feet of water per acre, the estimated increased value to the land per acre-foot of water is $4.35 and, since only 94½ percent of the total acre-foot yield goes into agricultural use, this value prorated over the total yield is $4.11 per acre foot.

(2) Little Colorado River:

There is no way to accurately estimate the value of the water in the Little Colorado drainage. Some of it reaches Lake Mead; some is evaporated; some sinks into the ground and is added to the groundwater table; and some is used to irrigate the 16,100 acres of irrigated land in Navajo County. These lands are less productive than those in the Salt River Valley. Considering all these factors, an estimated value of $1 per acre-foot is assigned to the water flowing to the Little Colorado River. This is believed to be very conservative.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 55) was ordered to be engrossed for a third reading, read the third time, and passed.

FORTY-SECOND ANNUAL CONVENTION OF NATIONAL RIVERS AND HARBORS CONGRESS

Mr. JOHNSON of Texas. Mr. President, our distinguished colleague in the House, Representative OVERTON BROOKS, has asked me to announce to the Senate that the 42d annual convention of the National Rivers and Harbors Congress will begin on Tuesday, May 31. All Members of Congress are ex-officio members of the National Rivers and Harbors Congress and are urged to attend and participate in the sessions. A very excellent program concerning water utilization has been prepared.

Mr. President, I desire to make an announcement relating to the business to come before the Senate.

The PRESIDING OFFICER. The Senator from Texas may proceed.

LEGISLATIVE AND EXECUTIVE PROGRAM

Mr. JOHNSON of Texas. Mr. President, I wish the Senate to be on notice that the only remaining item on the Executive Calendar will be considered on next Tuesday. That is the convention on Great Lakes Fisheries between the United States of America and Canada, which was reported on May 23 by the distinguished junior Senator from Minnesota [Mr. HUMPHREY].

The Senate would have considered the convention today, except that, in order to accommodate the convenience of several Members, I had stated that we would try to avoid having any yea-and-nay votes. However, I should like all Senators to know that on either Tuesday or Wednesday of next week the Great Lakes Fisheries Convention will be brought before the Senate.

I understand the convention was unanimously reported by the Committee on Foreign Relations; but, in accordance with the practice of the leadership, it is desired to have a yea-and-nay vote on the convention.

Also, for the information of the Senate, I announce again that the Senate will consider on next Tuesday the State Department appropriation bill. The mutual security bill probably will be reported to the Senate by then and be available for consideration on that day.

It is hoped that early consideration may be given to the postal pay bill, which has been reported today by the Committee on Post Office and Civil Service.

It is my understanding that the Committee on Banking and Currency, of which the distinguished senior Senator from Oregon [Mr. MORSE], who is now on the floor, is a member, hopes to report a housing bill. If it is reported as expected, it is my hope that the housing bill may be considered sometime next week.

Mr. President, only 11 bills remain on the Legislative Calendar. I again call attention to the fact that we are considerably ahead of schedule on the appropriation bills, due to the very excellent work which has been done by the Committee on Appropriations, which is headed by that experienced legislative veteran, the Senator from Arizona [Mr. HAYDEN]. Only one appropriation bill is in conference.

If action can be had on the minimum wage bill, it is my plan to schedule it for consideration by the Senate as soon as it is reported by the committee. The same is true of the school construction bill.

Priority has not been given to any measures in the Senate thus far this session. It has not been necessary to do so because of the fine cooperation of all Members of the Senate. For the most part bills remain on the calendar only a few days until the Senate has a chance to act upon them.

So, although there has been propaganda and talk by some uninformed or ill informed persons about measures which have priority, I should like the Senate and the country to know that if the committees will report the bills—and I do not urge them to do so until they have thoroughly considered them and have reached full accord on them—the policy committee and, I am certain, the minority leader will cooperate as he has in the past, will schedule the bills quickly and urge prompt action by the Senate.

Mr. POTTER. Mr. President, will the distinguished majority leader yield?

Mr. JOHNSON of Texas. I yield.

Mr. POTTER. I am sorry I did not hear the beginning of the majority leader's statement. When did he say he would call up the Great Lakes Fisheries Convention?

Mr. JOHNSON of Texas. Assurance has been given by the leadership that the convention would not be considered until a yea-and-nay vote could be had. I think the earliest possible date for consideration of the convention will be next Tuesday or Wednesday.

The distinguished senior Senator from Michigan has spoken with me on several occasions about the fisheries convention. I am anxious to cooperate with him, as he has always cooperated with the Democratic side of the aisle, particularly with the leadership. If it is possible to call up the convention on next Tuesday, that will be done.

Mr. President, the Senate will meet at 10 o'clock tomorrow morning. It is not planned to transact any business tomorrow. Some Senators may have statements to make or insertions to place in the RECORD; but there will be no votes.

The Senate will meet at 10 o'clock tomorrow to accommodate the employees of the Capitol, so that they may, perhaps, be able to begin their holiday weekend earlier than otherwise. I hope they may get a long deserved rest this weekend, over Memorial Day, because I anticipate that during June and July it will be necessary to spend many more hours in the Senate Chamber than were spent during the first few months of the session.

Again I wish to express my gratitude to every Member of the Senate for his helpfulness in expediting the business of the Senate.

MESSAGE FROM THE HOUSE—ENROLLED JOINT RESOLUTIONS SIGNED

A message from the House of Representatives, by Mr. Maurer, its reading clerk, announced that the Speaker had affixed his signature to the following enrolled joint resolutions, and they were signed by the Acting President pro tempore:

S. J. Res. 18. Joint resolution to provide for the reappointment of Dr. Jerome C. Hunsaker as Citizen Regent of the Board of Regents of the Smithsonian Institution; and

H. J. Res. 310. Joint resolution making additional appropriations for the fiscal year ending June 30, 1955, and for other purposes.

THE SALK VACCINE

Mr. MORSE. Mr. President, I ask unanimous consent to have printed in the body of the RECORD as a part of my remarks the text of a column written by Drew Pearson, which was published in the Washington Post and Times Herald of yesterday, relating to the Salk vaccine matter; and also an editorial which was published in this morning's Washington Post and Times Herald on the same subject. I wish to make some comments about the insertions.

There being no objection, the article and editorial were ordered to be printed in the RECORD, as follows:

[From the Washington Post and Times Herald of May 25, 1955]

THE WASHINGTON MERRY-GO-ROUND

(By Drew Pearson)

BACKGROUND OF SALK VACCINE MIXUP

To understand the whole mixed-up story of the Salk vaccine you have to go back about a year when Dr. Salk first gave his field tests to about a quarter of a million children.

Before that he had given the vaccine to his own children and shortly after the field tests he became so confident of its success that he approached the various drug companies asking them to begin preparing for large-scale manufacture.

He knew that to extract and treat monkey kidneys in such a way that no live virus remained in the serum would be complicated when done by newcomers and done on a large scale. He also knew there would be a tremendous demand for the vaccine, once it results were announced.

So he patiently propositioned some of the top drug companies of the Nation. Most, however, turned him down. They weren't ready to invest any money in advance, wanted to be sure they had a hard-and-fast proposition.

Only exception was Parke-Davis in Detroit, which did make a sizable investment and which, as a result, was the first company to have its vaccine completely cleared by the Public Health Service.

BASIL O'CONNOR'S FAITH

After Dr. Salk had knocked his head against the stone wall of pharmaceutical inaction, Basil O'Connor, head of the Infantile Paralysis Foundation, made a daring move. He had faith in the vaccine, even before the final evaluation was announced. He also knew there would be a terrific demand for the vaccine once the final results were announced. So he invested $9 million of the Foundation's funds in advance orders with the drug companies. He even borrowed the money to do this.

It was only after the drug companies got this $9-million order that they began to develop the new vaccine.

However, out of the first amount they produced they reported 500,000 cc did not go to the Polio Foundation which had borrowed the money to make possible the manufacture, but was shipped to the drug companies' regular commercial distributors.

That was how Cutter Laboratories' vaccine happened to be found a few days after the release on April 12 all the way from Mexico to Arlington, Va.

That was also how, out of the first fatalities resulting from the inoculations, five were the children of doctors. Doctors got the vaccine first and used it on their own children. Unfortunately some of it was Cutter vaccine which has now been withdrawn.

NOTE.—The Cutter Laboratories had had one criminal conviction in 1949 as a result of a Food and Drug Administration complaint that they failed to sterilize certain water solutions.

DRUG PROFITS

Senate investigators have learned that stock-market speculators got an advance tip on the Salk vaccine and invested heavily in the six drug companies. These companies are expected to make $20 million profits this year alone.

Ironically, Dr. Salk will get nothing. He may not even get some of the rewards proposed for him in Congress. Many Congressmen have introduced bills suggesting resolutions of thanks, or pensions, or medals for Dr. Salk. But all such House resolutions have gone to the Labor and Education Committee whose chairman, Representative GRAHAM BARDEN, North Carolina Democrat, says privately that he won't let a single Salk resolution out for a vote on the House floor.

Meanwhile, Canada, according to Senator NEUBERGER, of Oregon, is charging only $1.50 for three Salk vaccine shots, in contrast to the wholesale cost in the United States of $4.20 to $4.50.

"The announcement of Salk polio success on April 12 found Canada with a program," Senator NEUBERGER states. "The Government of the great United States had none.

"The Canadian Government bought up the entire production of the Connaught Medical Research Laboratories, and as a result sufficient supplies have been available in Canada."

NEUBERGER might have added that 1 month prior to April 12, Dr. Martha Eliot, Director of the Children's Bureau under Mrs. Hobby, warned that some action should be taken to prepare for the national distribution of Salk vaccine. So did Dr. Leonard Scheele, the Surgeon General. Mrs. Hobby, however, ignored the advice.

[From the Washington Post and Times Herald of May 26, 1955]

POLIO IN PERSPECTIVE

It is reassuring to have the Surgeon General's statement that all Salk antipolio vaccine given to children so far this year is safe, "with the exception of two lots of vaccine produced by the Cutter Laboratories." It is also reassuring, in a sense, to find the Public Health Service now proceeding so cautiously in the matter of authorizing continuance of the mass immunization program. A great deal of anxiety and confusion might have been averted had this caution been manifested earlier.

Every day of delay in getting school children inoculated reduces the chance that the program can be carried out before the summer vacation period when children will be less readily available. This is a misfortune in the case of the children who have received one shot and who may be unable to receive the second within the prescribed interval. But it is no great tragedy so far as the rest of the child population is concerned. Happily, the country is not now in the grip of a polio epidemic, and the incidence of the disease, it may reasonably be hoped, will not be widespread this year.

Without minimizing in any way the dangers of polio or the pathetic nature of this dread affliction, it is a good idea to look at it in perspective. In 1949, the most recent year for which detailed figures are available to us, there were 34,404 deaths from all causes among youngsters between 1 and 14 years of age. The leading causes of mortality in this age group and the number of deaths attributed to them were, in order: accidents, 10,278; influenza and pneumonia, 3,223; cancer and leukemia, 2,862; congenital malformations, 2,085; tuberculosis, 1,302; acute poliomyelitis, 1,282. Polio is perhaps more fearful as a crippler than as a killer. But it is worth remembering that, according to the best available estimates, four times as many children are crippled each year by rheumatic fever as by polio. Through the country as a whole, apart from epidemic areas, a pregnant woman stands more chance of being in an automobile accident than of contracting polio.

These statistics are presented with no thought of diminishing the country's rejoicing over Dr. Salk's great discovery. Very probably the Salk vaccine will help speed the doom of one of childhood's saddest afflictions. We suggest only that there will be no occasion for panic or alarm if the administration of the Salk vaccine is delayed until next fall. Care and caution are indispensable safeguards in this kind of preventive medicine.

Mr. MORSE. Mr. President, in addition to what appears in these articles, I wish to say with respect to the problem that not very long ago there was a small group of us here in the Senate who were subjected to great castigation and criticism because we raised objections to the handling of the Salk vaccine. It is very interesting to note that some of our former critics realize now that we did not utter any criticisms until we knew the facts. The senior Senator from Oregon never uttered a word of criticism against the Salk vaccine program until he had been briefed by competent medical authorities, who were fully familiar with what had transpired in connection with the program.

As the RECORD will show, I made two criticisms of happenings that caused me to reach the conclusion that the whole program had been handled incompetently by the Secretary of the Department of Health, Education, and Welfare. I repeat the charge of incompetency today, and say the record proves my charges.

Those criticisms were two major ones. The first one was that no planning for fair distribution of the vaccine had ever been made during the weeks preceding the announcement on April 12, when the Secretary knew full well that the vaccine was going to prove to be a success and that fact was going to be announced.

Before the Committee on Labor and Public Welfare she was asked by the distinguished Senator from New York why plans had not been made for a fair distribution of the vaccine. She uttered the very astounding observation that of course it was a new drug, and they did not realize there was going to be such a great public demand. I do not quote her verbatim, but I paraphrase her testimony accurately.

Of course, that is a startling conclusion on the part of the Secretary, because she should have known that millions of

American parents, once they knew the vaccine had been proved, in an overwhelming number of cases, to be a successful preventive of polio, would have demanded the vaccine. That was the first mistake which was made in regard to the problem.

The success of the vaccine was announced on April 12. On April 14 I introduced a bill to empower the Federal Government, during the period of short supply, to take over the distribution of the vaccine in the order of age susceptibility to polio.

Mr. President, the bill was sound on April 14, and it is still sound.

It is interesting to note that the procedure embodied in the provisions of my bill was followed by Canada, to the north of us, and followed without a single criticism that I have heard to date, and the vaccine is being distributed in Canada, and, interestingly enough, free, as far as inoculations are concerned, to the children of Canada, in the order of their susceptibility to polio.

Mr. President, I have not changed my position on this question. I still think it is regrettable that we have not followed a similar course of action in this country. When the vaccine was first announced on April 12, it was also announced there probably would be a short supply for from 12 to 14 months. The testing problem was not contemplated at that time, even by the authorities who had the responsibility for making the vaccine available to the public. With the checking and testing problems with which we are confronted, the period of short supply will probably be extended considerably beyond the 12 or 14 months originally estimated.

It seems to me the question of what the period will be is an academic question, but whatever the period, I think the Federal Government, through the Department of Health, Education, and Welfare, has a clear moral, and I think legal, responsibility to the American people, in protecting their health, to see to it that Dr. Salk's vaccine discovery—which was a thrilling discovery, a great dscovery—should be made available to the children of this country in the order of their susceptibility to polio.

Mr. President, as I try to evaluate that moral obligation of a government to its people, I just cannot imagine a responsibility of the Federal Government more characterized by a moral obligation than the obligation of the Government at this time to see to it that the distribution of this great discovery is handled in a way which will protect, to the maximum standard possible, the health of the American people in respect to the danger of a polio scourge.

I do not think representative government deserves the name if in a situation such as this the Government does not proceed to protect its people.

Mr. President, what do you suppose we would do in this country if we could know for a certainty that, come next week, a certain number of people would be subjected to some great disaster unless we took a preventive course of action now? Mr. President, you know what we would do. We would insist that we take a preventive course of action.

I shall employ an exaggerated analogy to illustrate what I think is a moral principle and one which I think we have a moral obligation to assume. Suppose a Senator walked down the floor of the Senate this afternoon with a bill, and presented to us facts which supported the bill, and was able to sustain the contention that if we passed that bill this afternoon we would be able to prevent, 1 week from today, what otherwise would be certain to happen, namely, the loss of 1,000 lives of fellow Americans. How much time would it take us to get the bill through the Senate? How much time would it take to get the bill through the House? Just a matter of minutes, and we would say to the Federal official involved, "You proceed, under the obligations in the bill."

I translate that analogy to the Salk vaccine problem which confronted the Senate of the United States. The announcement of the discovery was on April 12, and then came the announcement by the Government that there would not be enough to go around. Yet we have the expert medical opinion, which no one questions, that the susceptibility to polio is greatest in the 5-to-10-year-age bracket; then the 1-to-5-year-age bracket; then the boys and girls in the age bracket of 10 to 18; and pregnant women have a susceptibility to polio equal to that of boys and girls in the ages of 5 to 10. That is the medical opinion. Who wants to rise on the floor to question it? Not a Member of this body. My statement is not based on my expert knowledge, but on the expert knowledge of the medical profession. Do my colleagues mean we should sit here and permit a system to be adopted that is not going to permit the distribution of the Salk vaccine to children in the order of their susceptibility to polio?

I repeat what I said the other day, Mr. President: Consider the so-called voluntary plan, the plan which supposedly has been worked out on a voluntary basis. It is an administrative monstrosity. Canada, to the north of us, is putting us to shame.

So, Mr. President, the first problem we should have faced—and we should have faced it quickly—is that of fair distribution, with the Federal Government assuming its clear moral obligation to see to it that a vaccine is distrubuted by law, by the exercise of the lawful powers of the Government, to the boys and girls of the country, in accordance with what the medical profession tells us is their susceptibility by age to polio. That is problem No. 1.

Of course, problem No. 1 includes the entire question of how these inoculations are to be financed. I have been all morning in the Foreign Relations Committee, Mr. President, where we have been dealing with a bill calling for the authorization, not of a few million dollars, but of hundreds of millions of dollars. The Senator from Minnesota has been sitting with me on the committee. Billions of dollars are involved in the foreign-aid program. For 10 years I have supported foreign-aid programs, and I intend to continue to do so. But it is interesting to note how, in connection with the foreign-aid program, we appropriate millions and millions of dollars for health programs abroad—and I am in favor of providing money to help with health programs abroad—whereas the expenditure of a relatively small amount of money in the United States would make this precious vaccine available to all the boys and girls of our country.

Mr. President, our boys and girls constitute the most valuable wealth we have, because the wealth of our country is in its people, and nothing else. After all, Mr. President, what is a factory worth, as compared to the worth of a boy or a girl? As Senators, we have an obligation to think in terms of these great moral and spiritual values, not always to take the materialistic approach to these problems.

In this case we are dealing with a precious wealth of our Nation, namely, our boys and girls. Yet, around here there is a large amount of quibbling as to whether giving them free inoculations, regardless of the financial status of their parents, would amount to some form of "creeping socialism." Mr. President, it makes me simply disgusted to observe that apparently we have so little appreciation of great human values. Our problem of helping to stem the tide of polio in this country has nothing to do with the wealth of parents. It has to do with the moral responsibility which we, as legislators, owe to all the children of the country.

Mr. President, we have more free programs for checking hog cholera and Bang's disease in cattle than apparently we are willing to support in regard to checking polio in the boys and girls of America. I own a small herd of cattle in Maryland. The other day, I received written notice from the agricultural officials that I can have all those cattle vaccinated for nothing, for Bang's disease. I can afford to pay for those vaccinations. But why am I encouraged to have those cattle vaccinated free of charge? It is because the officials know that in this country we have a great livestock health program, and we do not wish to give anyone an excuse for not vaccinating his cattle, because if I keep a herd of cattle which have Bang's disease, my neighbor's cattle are likely to contract the disease from my herd.

Mr. President, although we do not know all the causes, and although we do not know just how the disease spreads, yet the evidence is rather clear that there are some contagious phases of polio. Certainly we have a clear legal and moral duty to protect the children of the country as much as we protect the hogs and the cattle. So the second problem confronting us is that in regard to paying for these innoculations.

The third problem is a touchy one, one which raises blood pressures and tempers, one which is causing a great deal of concern, because the record in this case is a sorry one, too. I refer to guaranteeing to the American people that the vaccine, when issued by the pharmaceutical societies, is safe. Mr. President, you should read some of the editorials on some of the statements I have previously made on this subject; or you should read

the Luce publication in New York—and, Mr. President, that word can be spelled either way, for my money—about what my statements are supposed to have done in regard to undermining the program. Mr. President, I have not undermined the program. I have spoken for the protection of the boys and girls of the country, and subsequent events have proved how correct I was. I did not express any expert knowledge on this matter. I only related to the Senate, in my first criticism of the program, what very competent medical authorities in confidential briefings had told me.

Mr. President, we have on the statute books, under the food and drug laws, the administrative power, vested in the National Institute of Health of the Department of Health, Education, and Welfare, to see to it that the Government itself doublechecks this vaccine before any of it is issued. When we pick up the newspapers, this morning, we find stories to the effect that the companies are objecting to the testing program. We have not yet been told the details of the testing program, but I know a little bit about it. But the drug companies think the testing program is going to be too stringent upon them.

Mr. President, in my judgment, in the case of this type of vaccine, the parents of America—because of the horrible effects of the disease upon precious boys and girls—have a right to say to the Federal Government, "See to it that the testing procedures are so adequate that there is no danger that impure vaccine will get into the channels of commerce or into the blood streams of our boys and girls."

That is all I asked for in the first place, Mr. President. I asked for it in the first place because medical authorities had warned me that they were very fearful of what was not being done in connection with the testing program.

Mr. President, let me say that one of the authorities made very clear to me that, on the matter of rechecking, after they first discovered that some impure vaccine had gotten into the blood streams of boys and girls—and, Mr. President, let us not forget this, and this is what I discover from some of my correspondence is not generally known—the Federal Government did not test the vaccine. By that I mean the Federal Government did not test the vaccine which comes from batches X, Y, and Z of various companies in this country. I am advised that the Federal Government's testing was limited to the so-called pilot-plant batches, which were tested when the experiment was still being conducted. But after a formula was worked out the Government simply turned over to the drug companies the responsibility for manufacturing the vaccine and the responsibility for releasing it to the public, without having the Federal officials check on each batch. That is what I believe is very dangerous.

Mr. President, what is the answer to my argument? It is that a polio-epidemic period is coming on, and that a choice must be made between speed and time; and that if inoculations are made with some vaccine which may not necessarily be pure, that is a calculated risk which must be run?

Mr. President, I believe that had they started soon enough, and had they worked out their testing procedures soon enough, we would not be in the mess we are in, and we would not have to conflict which is going on. The sad thing, as so often happens when there is conflict within the medical fraternity, is that the public is not let in on it if they can keep it secret. I understand that. I can see certain justification for it. Nevertheless, we are the people's watchdogs. The medical fraternity in this country has no monopoly right to determine what health policies shall be from the standpoint of legislative responsibility. That is our duty. I will never vote in the Senate to delegate to the medical profession complete control over medical policy in this country so far as the legislative responsibilities of the representatives of the people are concerned. No Member of this body will fight harder to protect the medical profession in its legitimate rights, including its right to the private practice of medicine.

But when we come to public-health questions, and what shall be the public-health policy of our Government, that happens to be our responsibility, and not the responsibility of the medical profession. In respect to that policy they function as the servants of the American people. I happen to believe that doctors, like lawyers, are public officials. Whenever we grant any great profession the license to practice upon the public, its members assume a public responsibility of great trust. They really function as public officials. That is why I have always said that I do not recognize such a thing as a private practitioner of the law. There is no such person in my book. When one becomes a lawyer and is admitted to practice before a court he becomes a man of great public trust, and his first responsibility is to the public, and not to his clients.

Likewise, the medical profession has a great moral responsibility to the public, and we, the Congress, have a duty to see to it that we enact legislation which lays out a framework of public-health policy, with respect to which we have the right to say to the medical profession, "You must operate within that framework until you can demonstrate to us that the framework needs to be modified."

Let us apply that principle to the matter of the Salk vaccine.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. MORSE. I am glad to yield to the Senator from Minnesota.

Mr. HUMPHREY. First of all, permit me to commend the Senator not only for these remarks, but for the vigilance and perception which he has demonstrated in connection with this very critical problem.

I think the Senator from Oregon will be interested to know that, from my own personal contacts with members of the National Institutes of Health, as well as the Surgeon General, I can testify that what the Senator has had to say with reference to testing is accurate. During the period of the field tests to which the Senator referred, in the experimental stage, three tests were made on every batch of vaccine. One was made at the Salk laboratory, one at the manufacturers' laboratories, and one at the National Institutes of Health. The Senator is correct when he says that once this vaccine became licensed tests were reserved for the manufacturer's laboratory, and approximately 1 out of every 7 batches was tested by spot check by the National Institutes of Health. I am positively confident of the veracity and accuracy of my statement in that connection.

Furthermore, I wish to say to the Senator that the Government of the United States licensed this vaccine. I had a conference with Dr. Scheele, the Surgeon General, on Friday last. In that conference I called his attention to the responsibility of the Government of the United States once an official governmental license had been granted for a particular vaccine.

Such license is granted under the terms of the Biologics Control Act, which is the basic law relating to vaccines and serums.

I told Dr. Scheele then—and I know the Senator from Oregon will be interested in this, because it expresses his own sentiments—that the professional reputation of the United States Public Health Service and the integrity of the Government of the United States were at stake in the Salk vaccine controversy; and that he, as Surgeon General, should always make his judgments on the side of caution and prudence, and permit no pressure from any source to push his hand in any direction which he professionally did not think was desirable.

Finally, let me say to the Senator from Oregon, in reference to the drug houses, that I, as one United States Senator, told Dr. Scheele last Friday, after some discussion with him in which we considered some of the difficulties, that if any drug house or any manufacturer's laboratory had the unmitigated gall or selfishness to tell him as Surgeon General that any standards or tests he might insist upon were impeding their operations or causing them difficulty, all he would have to do would be to tell a few United States Senators, and we would see who was on the right side.

Let us make it crystal clear right now that it is not a question of whether or not the manufacturing laboratories are happy or unhappy. It is not a question of whether they like the regulations or not. It is not a question of whether they think the tests are too rigid or not. They are licensed by the Government of the United States; and it is the duty of the Surgeon General to impose severe restrictions in terms of safety, to guarantee safety and efficacy.

There is not a drug house that dares to say to the American people that we must hurry because of their investment. There is not one that dares impose its judgment upon that of the United States Surgeon General and his advisory committee.

I suggest most respectfully to my friends in the drug laboratories that they do their job of producing a vaccine which

is efficient and safe, and leave it to the United States Surgeon General, the Public Health Service, the National Institutes of Health, and the competent medical advisory committees to determine the standards—standards which should have been determined long ago, as the Senator from Oregon has said.

The Senator from Oregon is correct. I know this is a touchy subject, but I believe that we owe the Senator from Oregon a debt of gratitude for bringing this subject up on the floor of the Senate. I have known about much of this for 2 weeks. As the Senator knows, I have literally hushed my tongue, because this is a very delicate matter. But the time is at hand to say frankly that there was dereliction of responsibility in the testing. There is no doubt about it. There has been slowness in bringing people to task in terms of the standards which should be imposed. At long last I am happy to see the United States Public Health Service doing what it is supposed to do, and that is serving the public and protecting the health and welfare of the children.

I thank the Senator from Oregon. He has rendered a great service to his country and to millions of children. I urge him not to worry about what any 20-cent magazine—overpriced, by the way—has to say.

Mr. MORSE. Mr. President, I am deeply moved by the statement of the Senator from Minnesota. I wish to say a word at this moment to the members of the press gallery, because if I did not say this word they would not believe what the facts are. I have known for more than 2 weeks that the Senator from Minnesota has been in consultation with some of the medical authorities to whom I have referred. I have never talked with the Senator from Minnesota on this subject, but these authorities advised me that he was another person who knew what they were telling me. As the Senator from Minnesota can testify, I have never said a word to him about this subject until just before I took the floor this afternoon. The Senator from Minnesota asked me, "What are you going to talk about?" He said, "I think I am to be recognized next."

I said, "You had better make arrangements with the Senator from Texas [Mr. JOHNSON], because I understand that I am to be recognized next. I intend to talk about the Salk vaccine."

The Senator from Minnesota said that he would listen with great interest, because he was very much interested in the position I had taken, and that he thought I was right. That was the first time the Senator from Minnesota ever said a word to me about a situation with respect to which I knew all along he likewise had been thoroughly briefed.

I also happen to know that the Senator from Minnesota has been waiting for certain other information. I am greatly indebted to the Senator from Minnesota for the magnificent and courageous statement he has just made on the floor of the Senate. All we are trying to do is to get the facts on the subject and to make certain that necessary precautions are taken in order to protect the boys and girls of this country from impure vaccine.

There is another fact I wish to bring to the attention of the Senate. I emphasize it with all the vigor at my command. I refer to the soundness of the position the Senator from Minnesota took when he reported what he told the Public Health Service the other day, namely, that it was their clear duty to see to it that every reasonable caution is exercised in testing the vaccine so far as the drug companies are concerned. We cannot give carte blanche authority to drug companies on a matter such as this, if a mistake in manufacture is made, and some impure vaccine gets into the blood stream of American boys and girls.

We have already seen that a drug company did make a mistake. That fact at least supports a reasonable inference that there is a causitive effect.

I have talked about innoculations being a preventive not only with regard to the people innoculated, but also with regard to the spread of polio to age groups above and below. That is the medical testimony, and that is why I believe the Government has the great obligation to go ahead with the program.

I wish to say something about the testing and rechecking and the delays the testing and rechecking cause. That is where time pressure comes in.

The Senator from Oregon has been castigated in the press by people who do not know what the Senator from Oregon knows about the situation. Of course, there has been a delay, and as a result there may be a spread of the polio epidemic. I am not responsible for the fact that precautionary steps were not taken in the first place. We are now faced with that fact. We have had evidence accumulate that more stringent precautions are necessary. I do not know what is proposed, but I hope that what I read in the newspaper this morning will substantiate my hope, namely, that the Public Health Service now at long last is going to see to it that the Public Health Service will exercise the legal rights it has under existing law. The Public Health Service has all the power it needs. We do not need to enact one piece of legislation so far as the checking and testing of the vaccine is concerned. The Public Health authority has the power now to insist that every precautionary step be taken to guarantee to the mothers and fathers of this country that we are not going to have vaccine used which might itself be causative of polio.

One bit of information has been given to me which disturbs me quite a bit. That is whether there will be a yielding to some shortcuts in the testing. I have been reliably informed that it takes from 60 to 90 days to test the vaccine, unless some perfectly good shortcut can be devised. I have been advised that if a sound method of testing is to be followed on a quantity of vaccine, it must be injected into an animal, a period of incubation must follow, and the animal must be killed and dissected and its tissues examined, and that that process takes not less than 60 days.

Apparently, the pressure is on to speed it up. It may be that further information and further facts discovered by the medical authorities will justify not going through that procedure in regard to the vaccine that has already been manufactured, although I understand there is good medical authority of the opinion that every bit of that vaccine ought to be put through that kind of testing procedure. I am not competent to testify on that. I do not know about that. However, I have the duty to raise that question.

I wish to say again that Dr. Salk will go down in medical history as one of the great medical discoverers of our entire history. As I said on April 14, I believe he has brought forth a thrilling discovery for the betterment of mankind. I do not want to see that great thrilling discovery of Dr. Salk in any way damaged because of a failure on the part of our Government to follow the precautionary measures necessary to protect the American public. Although some of the editorials and newspaper stories are to the effect that I have been charging that the vaccine is not a success, that is not true. I have said in every speech I have made on the subject that I accept the medical finding that it is a great success. A medical finding, of course, is based upon the use of a vaccine that is pure, and upon the use of a vaccine that has been so adequately tested that there is no danger that live cells are being left in the vaccine.

I have been briefed on all the technicalities in regard to the various types of suspension liquids that are used. That does not concern us in the Senate. All that should concern us is that we say to the Public Health Service and that we say to the Secretary of Health, Education, and Welfare: "The American people are entitled to the assurance that you, as the people's public health representatives, are under the law exercising your powers and your duties in seeing to it that the vaccine which is released from the drug houses is harmless in the sense that it is not possible for it to cause polio."

As the Senator from Minnesota [Mr. HUMPHREY] has pointed out, if they will do that, then no drug company and no medical association is going to dictate to the Government of the United States what the American people are going to receive by way of public-health protection. That is the Government's responsibility. I ask only that the Government officials charged with that responsibility carry out their duty.

I retract not one word of criticism I have made in the past. I am pleased, however, to state on the floor of the Senate, that the developments of the last 2 or 3 days give great hope that at long last our Government, at least in regard to the matter of testing, is about to do what it should have done in the first place. There still remains the duty for Congress to decide the matter of the distribution and free inoculations.

Again I recommend to our Government the Canadian experience. I believe we ought to be big enough to admit it when another government does a bet-

ter job than we have done. It is perfectly clear that the Canadian Government has far outstripped us when it comes to the protection of the public interest.

THE LADEJINSKY CASE AND SECURITY REFORMS

Mr. HUMPHREY. Mr. President, under an Associated Press byline the following information is brought to us:

Ladejinsky case brings security setup reforms.

I ask unanimous consent that the Associated Press article, as published in the Washington Evening Star of yesterday, be printed in the RECORD at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LADEJINSKY CASE BRINGS SECURITY SETUP REFORMS

The Agricultural Department which reaped widespread criticism for its handling of the controversial Wolf Ladejinsky case, is reforming its security procedures.

Asked whether this resulted from adverse reaction to the Department's disposition of the Ladejinsky case, Mr. Benson said "not particularly." "Rather," he said, "it is in line with the Department's continuing efforts to improve its housekeeping functions."

But the setting up of the permanent review committee is a direct result of the Ladejinsky case. Its creation was recommended by a special five-member committee named by Mr. Benson to study and make recommendations for the handling of security cases.

He told a news conference he has approved this recommendation and has set up a permanent committee headed by Under Secretary True D. Morse.

CASSITY TO SIT IN

J. Glen Cassity, the Department's security officer, and a key figure in the Ladejinsky controversy, will sit in on meetings of the committee but will not have a vote, Mr. Benson said.

Milan Smith, a special assistant to Mr. Benson who, with Mr. Cassity, bore the brunt of the criticism in the Ladejinsky case, will be an ex officio member of the committee.

A furor followed a ruling by the Department last December that Mr. Ladejinsky was a security risk. The Department refused to hire him when his job as Agriculture Attaché in Tokyo was transferred from the State Department to Agriculture.

Harold Stassen, head of Foreign Aid Operations, subsequently gave Mr. Ladejinsky complete security clearance and sent him to Viet-Nam to direct land reform.

Mr. Ladejinsky is Russian born but had a reputation among friends and associates as an anti-Communist.

WILL ASSIST PROGRAM

As Mr. Benson explained it, the new committee will "help direct the security program in the Department."

"He has always thought," Mr. Benson said, "that there is safety in counsel."

Presumably Mr. Cassity will put all security cases before the committee for review before any action is taken. Mr. Benson said "the committee will review security matters in connection with job applicants as well as persons already employed by the Department."

"In addition to Mr. Morse," Mr. Benson said, "the security review committee will be composed of Ralph Roberts, Administrative Assistant Secretary of Agriculture, General Counsel Robert Farrington, who headed the special committee, MacHenry Schaefer, Personnel Director, and Mr. Smith as ex officio member."

Mr. HUMPHREY. Mr. President, in looking over the news story to which I have referred I find that the Secretary of Agriculture, Mr. Benson, is setting up a permanent review committee to examine all security cases. I shall read a portion of the news story:

The Agricultural Department, which reaped widespread criticism for its handling of the controversial Wolf Ladejinsky case, is reforming its security procedures.

Asked whether this resulted from adverse reaction to the Department's disposition of the Ladejinsky case, Mr. Benson said "not particularly." "Rather," he said, "it is in line with the Department's continuing efforts to improve its housekeeping functions."

But the setting up of the permanent review committee is a direct result of the Ladejinsky case. Its creation was recommended by a special five-member committee named by Mr. Benson to study and make recommendations for the handling of security cases.

First of all, Mr. President, I wish to extend my congratulations to the Department of Agriculture for its belated acknowledgment of the transgressions and errors to which reference has been made. I would say to the Secretary that the public, at least those who are employees of the Department of Agriculture, and, I believe, the fair-minded American public, will be reassured by the establishment of this particular review committee. But, Mr. President, it should have been done in the beginning, rather than at such a late hour.

It is true that the Wolf Ladejinsky case did merit public criticism and public acknowledgment. But, in fact, it might very well be that the Wolf Ladejinsky case would never have come to the attention of the American people had it not been for a vigilant free press. I refer particularly to Mr. Clark Mohlenhoff, of the Des Moines Register, items from which on occasion appear in the Minneapolis Star and Tribune. More such articles could be used, and I would recommend to the newspaper that it use them. But it was due to the persistent efforts on the part of the Des Moines Register in opening up the case that the facts were brought to the public.

It seems to me, Mr. President, that what is needed immediately is a reevaluation of the case. I have had the privilege of looking into some of the facts pertaining to it. I have talked to the man in question, the one who has been so severely injured by the adverse ruling of the Department of Agriculture.

Mr. President, this is the same Mr. Ladejinsky who was selected by the Foreign Operations Administration, under Mr. Stassen; who is now in free Viet-Nam as a key figure in the American foreign policy in that area of the world; the same man who is consulting with the Government of Viet-Nam in the name of the United States. But this same man still has over his head a cloud of uncertainty and, I may say, of humiliation, because of the action of the Department of Agriculture under Mr. Benson.

I am sure Mr. Benson relied to a great extent upon Mr. Milan Smith, the Special Assistant to the Secretary. I believe he has the title of executive assistant to the Secretary. I notice that he will be an ex-officio member of the Permanent Review Committee. I hope that as an ex-officio member his powers will be limited and restricted to observation and not consultation, because he has performed a great disservice for his superior, the Secretary of Agriculture, by the advice and counsel he has given to him.

Furthermore, Mr. President, since the Department of Agriculture have now found out that their administrative setup on security cases needed to be reviewed, because it was weak, inadequate, and wrong, I suggest that they go back over the Ladejinsky case, review it, and bring it to the attention of the new Permanent Review Committee. Let all the facts be brought out, and let the Review Committee weigh the facts. When they do, I predict that they will lift from Mr. Ladejinsky's record the smear and the besmirching which have been placed upon it.

I cannot see how the administration can afford to have a man in one of the most sensitive areas of the world, where the struggle between communism and freedom is being fought out not only by words, but by bullets—I cannot understand how the administration can have in that area a man in such a key role as is Mr. Ladejinsky's if the first review of his record by the Department of Agriculture is correct.

Mr. President, the Department of Agriculture is being plain stubborn. There are some attributes of agriculture which are characterized by stubbornness, such as mules. But the Department does not have to concentrate its attention on that particular species. I suggest that they review this case, reconcile it, and give Mr. Ladejinsky the clean bill of health which the Foreign Operations Administration has said he deserves from that agency.

It is an incredible case. Setting up a review board may prevent mismanagement in the days to come, but it does not remove the stigma from those who have been victims.

I hope that in the very near future we may have a proper adjudication of the case and a reconciliation of the points of view. When that is done, I think the good name of Mr. Ladejinsky will be cleared, and possibly the good name of the Government of the United States will be cleared. Surely both are deserving of that kind of treatment.

SCHOOL INTEGRATION CASES IN THE UNITED STATES SUPREME COURT

Mr. EASTLAND. Mr. President, yesterday I submitted a resolution asking the Senate to endorse an investigation of the alleged scientific authorities upon which the Supreme Court relied to sustain its decision in the school integration cases of last year. As will be revealed in detail in my remarks, there is clear and unmistakable evidence that the Court chose to follow the insidious and false propaganda foisted by alien ideologies rather than rely on the Constitution as written, and long established legal precedents.

I ask unanimous consent that the text of my resolution (S. Res. 104) be inserted in my remarks at this point of the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

Whereas the Supreme Court of the United States rendered a decision on May 17, 1954, in the case of *Brown et al.* v. *Board of Education of Topeka et al.* and four related cases, which admittedly departed from the established law and precedents in declaring the "separate but equal" doctrine of separation of the white and black races was unconstitutional insofar as it applied to public-school facilities; and

Whereas this decision was based solely and alone on psychological, sociological, and anthropological considerations, in that the Court stated: "Whatever may have been the extent of psychological knowledge at the time of *Plessy* v. *Ferguson*, this finding is amply supported by modern authority"; and

Whereas the footnote to the opinion lists six allegedly modern authorities and concludes with the sentence: "And see generally Mydral, An American Dilemma (1944)"; and

Whereas a provisional investigation of the authorities upon which the Supreme Court relied reveals to a shocking degree their connection with and participation in the world-wide Communist conspiracy, in that Brameld and Frazier, listed in the group of 6 authorities, have no less than 28 citations in the files of the Committee on Un-American Activities of the United States House of Representatives revealing membership in, or participation with, Communist or Communist-front organizations and activities; and

Whereas the book, An American Dilemma, was prepared by a Swedish Socialist, who declared in the book that the United States Constitution was "impractical and unsuited to modern conditions" and its adoption was "nearly a plot against the common people"; and

Whereas this book was the result of collaboration between Mydral and certain alleged "scholars and experts" assigned him by the Carnegie Corp., of Alger Hiss fame; and

Whereas 16 of these so-called scholars and experts, who contributed to no less than 272 different articles and portions of the book, have been cited numerous times as members of Communist and subversive organizations; and

Whereas the citation of these authorities clearly indicates a dangerous influence and control exerted on the court by Communist-front pressure groups and other enemies of the American Republic and individual members thereof that is inimical to the general welfare and best interest of the Republic; and

Whereas this Senate, the 16 sovereign States whose constitutions were nullified by the illegal decision of the Supreme Court, and all of the people of the United States are now entitled to know beyond doubt and peradventure the complete extent and degree of Communist and Communist-front activity and influence in the preparation of the psuedo "modern scientific authority" which was the sole and only basis for the decision of the Supreme Court: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Senate Committee on the Judiciary should proceed under its presently constituted powers to investigate the extent and degree of participation by individuals and groups identified with the Communist conspiracy, Communist-front organizations, and alien ideologies, in the formation of the "modern scientific authority" upon which the Supreme Court relied in the school integration cases.

Mr. EASTLAND. Mr. President, somewhat more than 1 year ago I pointed out in an address on this floor that the Supreme Court had been indoctrinated and brainwashed by left-wing pressure groups; that individual members of the Court were influenced by and were guilty of grossly improper conduct in accepting awards and emoluments from groups and organizations interested in political litigation before the Court and bent on changing and destroying our American way of life; that such reprehensible conduct placed a question mark by the validity and the integrity of their decisions in cases in which these groups were interested, of which the school segregation case is one.

Today, I am calling upon the Members of the Senate to consider an even more serious problem. The Court has not only arrogated to itself powers which were not delegated to it under the Constitution of the United States and has entered the fields of the legislative and executive branches of the Government, but they are attempting to graft into the organic law of the land the teachings, preachments, and social doctrines arising from a political philosophy which is the antithesis of the principles upon which this Government was founded. The origin of the doctrines can be traced to Karl Marx, and their propagation is part and parcel of the conspiracy to divide and destroy this Government through internal controversy. The Court adopts this propaganda as "modern scientific authority."

Mr. President, in the long legal history of this country, there has never before been a time when an Appellate Court or Supreme Court of the United States relied solely and alone on scientific authority to sustain a legal decision. I am informed that in the long history of British jurisprudence, there has never been a time when the high courts of England have resorted to such dubious authority, but that their decisions have been based on the law. Mr. President, my information is that the one time when the high appellate court of any major western nation has resorted to textbooks and the works of agitators to sustain its decision was when the high court of Germany sustained Hitler's racist laws.

What the bar and the people of the United States are slow to realize is that in the rendition of the opinion on the school segregation cases the entire basis of American jurisprudence was swept away. There is only one other comparable system of jurisprudence which is based upon the winds of vacillating, political, and pseudoscientific opinion—the Peoples Courts of Soviet Russia. In that vast vacuum of liberty, the basis of their jurisprudence is the vacillating, ever-changing winds of pseudoauthority. And that today is the basis of American jurisprudence as announced by a unanimous opinion of our Supreme Court.

Justice Frankfurter handed down an opinion as late as April 28, 1952, with the concurrence of Chief Justice Vinson and Justices Burton, Minton, and Clark, in which he absolutely denied the competence of the Court to pass upon issues such as those presented in the segregation cases. He said:

> Only those lacking responsible humility will have a confident solution for problems as intractable as the frictions attributable to differences of race, color, or religion. • • • Certainly the due-process clause does not require the legislature to be in the vanguard of science—especially sciences as young as human sociology and cultural anthropology. • • •
>
> It is not within our competence to confirm or deny claims of social scientists as to the dependence of the individual on the position of his racial or religious group in the community.

The Supreme Court, unable to relate science to the fifth amendment, has done an unheard of thing. It has now found scientific authorities to attempt to sustain its view of what the 14th amendment should mean. Who are these authorities? From what background do they come? What has been the nature of their work and activities?

Let us consider the so-called modern authorities on psychology cited by the Court as its authority to change and destroy the constitutional guaranties of the reserved natural right of the people of the States of the Union to freedom of choice and of the States to regulate their public schools.

First, they cited one K. B. Clark, a Negro, so-called social-science expert employed by the principal plaintiff in the segregation cases, the NAACP, whose lawyer argued these cases before the Court. To say the least, it is the most unusual procedure for any court to accept a litigant's paid employee as an authority on anything, let alone as an authority on psychology, to put him above the Constitution itself.

Then, too, we find cited by the Court as another alleged modern authority on psychology to override our Constitution, one Theodore Brameld, regarding whom the files of the Committee on Un-American Activities of the United States House of Representatives are replete with citations and information. He is cited as having been a member of no less than 10 organizations declared to be communistic, Communist front, or Communist dominated. His name has frequently appeared in the news columns of the Daily Worker.

Brameld, according to the Communist Official Daily Worker of February 28, 1949, signed a statement of the Committee for Free Political Advocacy defending the 12 Communist leaders.

Again, on December 10, 1952, the Daily Worker shows that Brameld signed an appeal to President Truman requesting amnesty for leaders of the Communist Party convicted under the Smith Act.

And, again, on February 10, 1938, the Daily Worker shows Theodore Brameld to have signed a letter in defense of the appointment of Simon W. Gerson, a Communist, to the staff of Stanley Isaacs.

His name appears on a brief submitted by Cultural Workers to the Supreme Court in October 1949, on behalf of the 10 convicted defendants engaged in the motion-picture industry, who were charged with contempt of a congressional committee for refusing to affirm or deny membership in the Communist

Party in response to committee questions.

He was affiliated with the American Committee for Protection of Foreign Born, as shown by the Daily Worker of August 10, 1950, which committee was cited as subversive and Communist by Attorney General Tom Clark in letters to the Loyalty Review Board, released on June 1 and September 21, 1948, and was redesignated by Attorney General Brownell, April 29, 1953, under provisions of Executive Order 10450. The Special Committee on Un-American Activities cited the American Committee for Protection of Foreign Born as "one of the oldest auxiliaries of the Communist Party in the United States."

He was listed by the Daily Worker on January 11 and 25, 1938, as a supporter of the Boycott Japanese Goods Conference of the American League for Peace and Democracy. The American League for Peace and Democracy was established in the United States in 1937 as successor to the American League Against War and Fascism "in an effort to create public sentiment on behalf of a foreign policy adapted to the interests of the Soviet Union" and "was designed to conceal Communist control, in accordance with the new tactics of the Communist International."

This is shown by report of Attorney General Biddle, CONGRESSIONAL RECORD, September 24, 1942; by report of Attorney General Clark—letters to Loyalty Review Board, released June 1 and September 21, 1948; and by Attorney General Brownell in his memorandum of April 29, 1953. The Special Committee on Un-American Activities cited the American League for Peace and Democracy as "the largest of the Communist-front movements in the United States," by its report of January 3, 1939, and other reports cited March 29, 1944.

Brameld was one of those who issued a statement of the Committee for Peaceful Alternatives to the Atlantic Pact, dated December 14, 1949, calling for an international agreement to ban the use of atomic weapons. But the Committee for Peaceful Alternatives to the Atlantic Pact was formed as a result of the Conference for Peaceful Alternatives to the Atlantic Pact to further the case of Communists in the United States doing their part in the Moscow campaign, according to a report of the Committee on Un-American Activities, April 25, 1951.

He was a sponsor of the Midcentury Conference for Peace, May 29 and 30, 1950, which was cited by the committee as having been "aimed at assembling as many gullible persons as possible under Communist direction and turning them into a vast sounding board for Communist propaganda."

Brameld was a sponsor of the Conference of the Cultural and Scientific Conference for World Peace, held under auspices of the National Council of the Arts, Sciences, and Professions, New York City, March 25–27, 1949. On April 19, 1949, the Committee on Un-American Activities cited the Cultural and Scientific Conference as a Communist front, which "was actually a supermobilization of the inveterate wheelhorses and supporters of the Communist Party and its auxiliary organizations."

Brameld was a sponsor of a conference held October 9 and 10, 1948, by the National Council of the Arts, Sciences, and Professions, which was cited as a Communist front in the same committee report on April 18, 1949.

In October 1936 he was a member of the Nonpartisan Committee for the Reelection of Congressman Vito Marcantonio, which organization was cited by the Special Committee on Un-American Activities as a Communist front on March 29, 1944.

In 1939, Theodore Brameld also was a sponsor of the Refugee Scholarship and Peace Campaign, which was cited as a Communist front by the Special Committee on Un-American Activities in its report March 29, 1944.

There is the public record of Theodore Brameld, who was cited by the Supreme Court as a modern authority on psychology in support of its racial integration decision of May 17, 1954. This record not only was available to Chief Justice Warren and the Associate Justices of the Supreme Court upon request, but this record of Brameld was made up partly by an Attorney General who is now a member of the Court which rendered that decision, and by official printed report of the administration of Chief Justice Warren when he was Governor of the State of California.

Also cited by the Court as one of its modern authorities on psychology to overthrow the accepted meaning of a provision of the United States Constitution was one E. Franklin Frazier. The files of the Committee on Un-American Activities of the United States House of Representatives contain 18 citations of Frazier's connection with Communist causes in the United States.

He signed a statement of the National Federation for Constitutional Liberties, hailing the War Department's order regarding commissions for Communists. The National Federation for Constitutional Liberties was cited by the Attorney General in letters furnished the Loyalty Commission on December 4, 1947, and September 21, 1948, as subversive and Communist and, now listen, Mr. President, as "part of what Lenin called the solar system of organizations ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program." The special committee in its report of March 29, 1944, cited the National Federation for Constitutional Liberties as "one of the viciously subversive organizations of the Communist Party." On September 2, 1947, the special committee again cited the National Federation for Constitutional Liberties as among a "maze of organizations" which were "spawned for the alleged purpose of defending civil liberties in general, but actually intended to protect Communist subversion from any penalties under the law."

Frazier was a sponsor of the Washington Committee for Democratic Action, which was cited as subversive and Communist by the Attorney General of the United States in letters released December 4, 1947, and September 21, 1948.

E. Franklin Frazier published a pamphlet entitled "Seeing Is Believing" in 1947, as a member of the Council on African Affairs, Inc., of which he was a member.

The Council on African Affairs, Inc., was cited as subversive and Communist by the Attorney General in letters released December 4, 1947, and September 21, 1948.

E. Franklin Frazier signed an appeal to lift the Spanish embargo sponsored by the Negro People's Committee to Aid Spanish Democracy, as shown by the Daily Worker of February 8, 1939. The Negro People's Committee to Aid Spanish Democracy was cited as a Communist-front organization by the Special Committee on Un-American Activities in its report of March 29, 1944.

In 1946, evidence in the House Committee on Un-American Activities showed that Frazier was a member of the Board of Directors of the Committee for a Democratic Far Eastern Policy which was cited by the Attorney General as a Communist organization in a letter released April 27, 1949.

The same Frazier, as a member of the Civil Rights Congress, signed a statement defending the Communist Party, as shown by the Communist Daily Worker, April 16, 1947. The Attorney General cited the Civil Rights Congress as subversive and Communist in letters released December 4, 1947, and September 21, 1948. The congressional committee, in its report of September 2, 1947, cited the group as "dedicated not to the broader issues of civil liberties, but specifically to the defense of individual Communists and the Communist Party" and "controlled by individuals who are either members of the Communist Party or openly loyal to it."

Frazier was named in the Communist Daily Worker of July 18, 1949, as one of the sponsors of a group defending the 12 Communist leaders on trial. The same information appeared on the back of a letterhead of the National Non-Partisan Committee to Defend the Rights of the 12 Communist leaders, dated September 9, 1949; and in the Daily Worker of October 3, 1949.

In 1947, Frazier was a member of the executive board of the Southern Conference for Human Welfare. By the special committee report of March 29, 1944, the Southern Conference for Human Welfare was cited as a Communist-front organization; and on June 12, 1947, the congressional committee cited the Southern Conference for Human Welfare as a Communist-front organization "which seeks to attract southern liberals on the basis of its seeming interest in the problems of the South" although its "professed interest in southern welfare is simply an expedient for larger aims serving the Soviet Union and its subservient Communist Party in the United States."

E. Franklin Frazier was a speaker at the Southern Negro Youth Congress, as shown by the Communist Daily Worker of January 23, 1937. The Southern Negro Youth Congress was cited as subversive and among the affiliates and committees of the Communist Party, United States of America, which seeks to alter

the form of government of the United States by unconstitutional means. It was thus cited by the Attorney General in a letter released December 4, 1947. The group was cited as a Communist-front organization by the special committee in its report dated January 3, 1940.

Frazier's name appeared in a published signed statement in the Washington Post on May 18, 1948, as opposing the Mundt-Nixon anti-Communist bill.

E. Franklin Frazier was a member of the Citizens Committee To Free Earl Browder, which was cited by the Attorney General as Communist, in a letter released April 27, 1949, and previously as shown by the CONGRESSIONAL RECORD of September 24, 1942. The special committee, in its report of March 29, 1944, cited the citizens committee as a Communist-front organization.

Frazier was a sponsor of Social Work Today, in 1940, and he was one of those credited, by its publication in February 1942, as having made it possible for Social Work Today to strengthen and prepare itself for the supreme test. Social Work Today was cited as a Communist magazine by the special committee in its report of March 29, 1944.

E. Franklin Frazier was one of those who signed a statement condemning the "punitive measures directed against the Communist Party," as shown by the Communist Daily Worker of April 16 and 20, 1947.

Frazier wrote the book The Negro in the United States, which was favorably reviewed by the Communist social journals, The Worker and Daily People's World, on May 15, 1949, and July 28, 1949; and his book was advertised in the Communist Workers Book Shop Catalogs for 1949 and 1950. Incidentally, Frazier's Communist officially adopted book The Negro in the United States is the same book which was officially adopted and cited as authority by the United States Supreme Court in its racial integration public-school cases on May 17, 1954.

The same Frazier glorified the brazen Negro Communist Paul Robeson, according to the Communist Daily Worker of November 4, 1949, by stating at a public meeting in Turner's Arena "that in American culture the Negro male has never been permitted to play a masculine role. Robeson represents the Negro man in the masculine role as a fearless and independent thinker."

Frazier was vice chairman of the National Council of the Arts, Sciences, and Professions, which was cited by the congressional committee, in its report of March 25, 1949, as a Communist-front organization.

E. Franklin Frazier was an endorser of the World Peace Appeal, in September 1950; he was a signer of the Stockholm World Appeal to Outlaw Atomic Weapons, in October 1950. The World Peace Appeal was cited as a petition campaign launched by the Permanent Committee of the World Peace Congress at its meeting in Stockholm, March 16–19, 1950, as having "received the enthusiastic approval of every section of the international Communist hierarchy"; as having been lauded in the Communist press, putting "every individual Communist on notice that he 'has the duty to rise to this appeal' "; and as having "received the official endorsement of the Supreme Soviet of the U. S. S. R., which has been echoed by the governing bodies of every Communist satellite country, and by all Communist Parties throughout the world." I refer to the congressional committee House Report No. 378 on the Communist "peace" offensive, of April 1, 1951.

The same E. Franklin Frazier, according to the Communist official organs, Daily Worker, of October 19, 1950, and the Daily People's World, of October 23, 1950, was a sponsor of the American Sponsoring Committee for Representation at the World Peace Congress. In this connection, his photograph appeared in the Daily People's World. The congressional committee cited the World Peace Congress as a Communist front among the "peace conferences" which "have been organized under Communist initiative in various countries throughout the world as a part of a campaign against the North Atlantic Defense Pact."

Frazier signed a letter by the Committee for Peaceful Alternatives, on March 30, 1950.

The congressional committee, in its report on the Communist peace offensive, April 1, 1951, cited the Committee for Peaceful Alternatives to the Atlantic Pact as an organization which was formed to further the cause of Communists in the United States doing their part in the Moscow campaign.

The same E. Franklin Frazier, adopted by the United States Supreme Court as one of its leading modern authorities on psychology, was also a sponsor of the Spanish Refugee Appeal of the Joint Anti-Fascist Refugee Committee, which the Attorney General cited, in letters released December 4, 1947, and September 21, 1948, as subversive and Communist, and which the House special committee, in its report on March 29, 1944, cited as a Communist-front organization.

To round out his great career in the Communist cause, the same E. Franklin Frazier, according to the Communist official organ, the Daily Worker of March 5, 1951, signed a letter to President Truman, asking him to recognize the seating of the Communist Peoples Republic of China in the United Nations.

E. Franklin Frazier has been too prominently and frequently connected with Communist and subversive organizations for almost anyone in public life in Washington not to have been put on notice. Certainly, the highest Court of the land was more than careless in defending the Constitution by adopting E. Franklin Frazier as an alleged authority on modern psychology to override and overthrow the fundamental principles of our Constitution.

The Court cited and adopted generally, and without reservation, as its leading authority on modern psychology, Myrdal's book An American Dilemma, when it said—and I quote from Chief Justice Warren's opinion: "And see generally Myrdal, An American Dilemma, 1944."

Let us take a look and see what the Court adopted as its leading authority on modern psychology as the basis for its racial integration decision, when it adopted Myrdal's An American Dilemma.

In 1937 the Carnegie Foundation brought over Dr. Gunnar Myrdal, professor in the University of Stockholm. He was described by the corporation as a social economist. He called himself a social engineer. He was a Socialist who had served the Communist cause. He admitted he had no knowledge of the Negro question in the United States. He was hired to make an investigation of race relations in this country; was given an ample staff and funds for that purpose, and was told to publish his findings. On this project Myrdal naturally found himself in the company of those recommended by the Carnegie Foundation, of Alger Hiss fame.

Myrdal has an utter contempt for the principles upon which the United States was founded and for the political system to which the people adhere. It is incredible that the Supreme Court could have overlooked, if they read it at all, certain remarks that are contained in his book, on which the Court mainly bases its decision. Myrdal stated that the Constitution of the United States was "impractical and unsuited to modern conditions" and its adoption was "nearly a plot against the common people." This is purely Communist propaganda, which was cited by the Supreme Court, and on which the Chief Justice of the United States based a very far-reaching decision looking to the destruction of our form of government. I have often wondered what was the source of the pro-Communist influence in the Supreme Court.

Myrdal shows that he did not write this 1,400-page book himself. He hedged himself about with many self-imposed restrictions and "value premises," so that the book has no scientific validity, either from the standpoint of biology, sociology, or psychology.

Myrdal shows that his book was the work of several so-called social experts furnished him by the Carnegie Foundation, of Alger Hiss fame. It would be more in keeping with the facts, if, when Myrdal gave the names of most of these Carnegie Foundation "social experts," he had said that they were taken right out of lists of members of Communist and subversive organizations dedicated to the overthrow of our Constitution and the United States Government, because that is the actual fact.

If Chief Justice Warren had only taken the time and trouble to refresh his memory from his own State's officially printed reports and records of his own administration as governor of his own State, he would have found, and he can still find, the names of these Myrdal "social experts" in the fourth report on un-American activities in California, 1948, and the sixth report published in 1951 on Communist-front organizations by the Joint Fact-Finding Committee to the 1948 and 1951 regular California Legislature, when the Chief Justice was Governor of the State of California.

Certainly Judge Warren cannot claim unfamiliarity with his own State official reports on such an important subject.

I shall give 16 names furnished by the Carnegie Foundation as "social experts" to Gunnar Myrdal, the Swedish "social engineer," for the writing of "An American Dilemma" adopted in full by the Court and their Communist connections according to the official 1948 California report, made at the time the Chief Justice was Governor of California.

The tenor of that book is to the effect that the American form of government has outlived its usefulness, and that the Constitution of the United States is a plot against the common people of this country. That was the message of the principal authority relied on by the Chief Justice of the United States in this far-reaching decision.

The names and organizations with which the Myrdal advisers were affiliated are as follows:

Frank Boas was 1 of 17 liberal leaders who signed a letter addressed to American Civil Liberties Union, supporting the Soviet Union; chairman of the American Committee for Democracy and Intellectual Freedom, successor to the Communist-front, the Scientists' Committee; affiliated with the American Committee for Protection of Foreign Born; member of the American Committee To Save Refugees; affiliated with American League for Peace and Democracy; member of the National Council of the American Peace Mobilization; affiliated with the Citizens Committee To Free Earl Browder; affiliated with Committee To Defend America by Keeping Out of the War; member of the Provisional Committee of the Conference on Constitutional Liberties in America; on advisory board of Films for Democracy; member of John Reed Clubs; member of National Emergency Conference for Democratic Rights; associated with National Federation for Constitution Liberties; affiliated with People's Peace; supported the Stalin-Hitler Line Committee To Defend America by Keeping Out of War; member of Russian War Relief, Inc.; signer of the statement defending the Communist Party; and listed as a well-known Communist and sponsor of Young People's Records.

All these Frank Boas organizations were shown to be Communist or Communist-front organizations in the official 1948 California report.

W. E. B. DuBois was a member of the National Committee of All-America Anti-Imperialist League; member of the American Committee for Indonesian Independence; affiliated with American League for Peace and Democracy; sponsor of China Conference Arrangements Committee; affiliated with Citizens Committee To Free Earl Browder; consultant to Committee for a Democratic Eastern Policy; contributed to the Communist official organ, the Daily Worker; and a signer of the Golden Book of American Friendship With the Soviet Union.

These organizations are listed as Communist or fronts:

Alain Locke was affiliated with American League for Peace and Democracy; sponsor of China Conference Arrangements Committee; sponsor of Conference on Constitutional Liberties in America; signer of Golden Book of American Friendship With the Soviet Union; among the instructors and guest lecturers of Jefferson School of Social Science; associated with National Federation for Constitutional Liberties; signer of Statement Defending the Communist Party; and member of Board of Sponsors of People's Songs, Inc.

All these are listed as Communist fronts and Communist organizations.

Ira dea Reid was affiliated with American Committee for Protection of Foreign Born; affiliated with Citizens Committee To Free Earl Browder; member of national board of National Share-Croppers Funds; and affiliated with National Citizens' Political Action Committee; American Committee for Protection of Foreign Born; American League Against War and Fascism; Citizens Committee To Free Earl Browder; National Federation for Constitutional Liberties; and Southern Conference for Human Welfare.

All these organizations are listed as Communist or Communist fronts.

Doxey Wilkerson was consultant to the Committee for a Democratic Eastern Policy, which is listed as a Communist-front organization.

Ruth Benedict, according to the Daily Worker of March 31, 1947, page 11, was the coauthor of a pamphlet The Races of Mankind, which the War Department banned.

Charles S. Johnson was national vice chairman of National Share-Croppers Fund; affiliated with American Committee for Protection of Foreign Born; National Federation for Constitutional Liberties; and Southern Conference for Human Welfare.

These organizations were listed as Communist fronts.

Clark Foreman was one of the initiators of a National Congress on Civil Rights, out of which emerged the Civil Rights Congress; speaker at conference and vice chairman of National Committee To Win the Peace; and vice chairman of Progressive Citizens of America.

These organizations are listed as Communist fronts.

Arthur Raper was a member of national board of National Sharecroppers Fund; affiliated with Council of Young Southerners; League of Young Southerners; and Southern Conference for Human Welfare.

These organizations were listed as Communist fronts.

Lewis Webster Jones was national sponsor of the National Council of American-Soviet Friendship, successor to the discredited Communist front, the Friends of the Soviet Union.

Rose Nelson was listed as Communist or Communist fellow-traveler, and textbook writer for use in public schools.

Sterling Brown was affiliated with League of American Writers, which is a Communist-front organization.

Eveline Burns was listed as Communist, textbook writer, and member of Citizens' Committee for Better Education, a Communist front.

Thomas Jones was advocate of United Negro and Allied Veterans of America, cited as a Communist-front organization.

T. Arnold Hill was cooperator-sponsor of Social Work Today which is a Communist periodical.

One of the so-called social scientists who also contributed to the writing of Myrdal's An American Dilemma, adopted by the Supreme Court as its authority on modern psychology, was none other than E. Franklin Frazier, whose 18 Communist organization connections I have already given.

An American Dilemma was written in largest part by American Communist-front members, such as E. Franklin Frazier, who contributed to 28 portions of the book, and W. E. B. DuBois, who contributed to 82 different portions of the book. Altogether the Communist-front members identified with Myrdal's An American Dilemma contributed to 272 different articles and portions of the book officially adopted by the Communist Party and by the Supreme Court as its authority for its racial integration decision of May 17, 1954.

That is the true picture presented by an analysis from the records of the decision of the United States Supreme Court in the school segregation cases.

How can the Court expect the American people to accept its decision to change the accepted meaning of the fundamental principles of our Constitution when its decision is contrary to every other decision of the United States Supreme Court on the same question, and when its decision is now based on its adoption of members of Communist organizations and Communist writings as its authority to change fundamental principles of the Constitution?

This same Gunnar Myrdal has recently appeared in the news as directing the staff of the United Nations Economic Commission for Europe in the preparation of a report regarding the foreign operation of the American oil industry. Myrdal's Commission feels that American oil companies "overcharged" their European customers for Middle Eastern oil, and hinted that some sort of international price control is the indicated remedy.

The Saturday Evening Post comments editorially that Myrdal is a Swedish Socialist. I quote:

> The author of a report on the race problem in the United States. In the course of this "monumental work" Myrdal described the adoption of the United States Constitution as "nearly a plot against the common people." It asks, Is Myrdal the best authority a U. N. agency could rely on for a complicated study of the oil industry?

It is a tragic commentary on the intelligence and judgment of the members of the United States Supreme Court that they would override the Constitution on the alleged evidence and opinion of such a "psychological" authority. It is the final indication as to the degree and extent that the Court has been "brainwashed" by pressure groups and is willing to sacrifice the people, the Constitution, and established law to communistic and socialistic dogma and principles.

Mr. President, it is evident that the decision of the Supreme Court in the school segregation cases was based upon the writings and teachings of pro-Communist agitators and other enemies of

the American form of government. The Chief Justice of the United States actually cites as authority for his decision a book, the thesis of which is that the Constitution of the United States is "impractical and unsuited to modern conditions" and its adoption was "nearly a plot against the common people." Our country has come to a sorry state of affairs when the Chief Justice of the Supreme Court, speaking for all the members of the Court, should cite, as his authority for a decision, a book compiled by an alien who advocates the destruction of the American form of government—the very form of government which this Chief Justice and this Court are sworn to uphold.

Mr. President, the question is asked, Will the South obey this decision of the Supreme Court? Who is obligated morally or legally to obey a decision whose authorities rest not upon the law but upon the writings and teachings of pro-Communist agitators and people who have a long record of affiliations with anti-American causes and with agitators who are part and parcel of the Communist conspiracy to destroy our country? From the beginning of the Republic, the judiciary, the Congress, the executive branch of the Government, and all the States have recognized that a State has the power under the Constitution to segregate children in its schools because of race. The Supreme Court of the United States has consistently so held throughout the years. Any person is credulous indeed to believe that southern people will permit all this to be swept aside by a Court who relies for its authority not upon the law but upon pro-Communist agitators and enemies of our system of government.

Mr. President, for the welfare of America, the resolution to investigate this setup should be adopted.

Mr. JOHNSTON of South Carolina. Mr. President, I wish to join the Senator from Mississippi in sponsoring the resolution.

Mr. EASTLAND. Mr. President, I ask unanimous consent that the name of the distinguished Senator from South Carolina [Mr. JOHNSTON] be added as a cosponsor of the resolution.

Mr. JOHNSTON of South Carolina. I make the request in view of the fact that the Subcommittee on Internal Security has been making a study of the subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, May 26, 1955, he presented to the President of the United States the enrolled joint resolution (S. J. Res. 18) to provide for the reappointment of Dr. Jerome C. Hunsaker as citizen regent of the Board of Regents of the Smithsonian Institution.

RECESS UNTIL 10 O'CLOCK A. M. TOMORROW

Mr. JOHNSON of Texas. Mr. President, in accordance with the order previously entered, I move that the Senate stand in recess until 10 o'clock a. m. tomorrow.

The motion was agreed to; and (at 3 o'clock and 38 minutes p. m.) the Senate took a recess, the recess being, under the order previously entered, until tomorrow, Friday, May 27, 1955, at 10 o'clock a. m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 26 (legislative day of May 2), 1955:

POSTMASTERS

ARKANSAS

Helen H. Mitchell, College Heights.
Paul E. Francis, Hot Springs National Park.

CALIFORNIA

Alma A. Hyland, Altaville.
Georgamy K. Campbell, Brockway.
Sue M. Ghezzi, Cayucos.
Mary T. Fye, Crestline.
Edith V. Stordalen, Daggett.
John Herman Gengler, Marysville.
Vernon D. Darby, Middletown.
Helen E. Glaab, Montalvo.
Lyle R. Burkhart, Montrose.
Hazel M. Ginn, Moss Landing.
William J. Rissel, Pebble Beach.
Rudolph F. Loewe, Visalia.

FLORIDA

Floid B. Schneider, Dover.
Willis S. Morey, Princeton.

GEORGIA

Louis J. O'Connell, Augusta.
Ben Dayton Newton, Shady Dale.
Ruth R. Myers, Smithville.
Reginald D. Reynolds, Sumner.

IDAHO

Winfrey K. Kimble, Irwin.
Vera Miskin, Palisades.

ILLINOIS

Frank T. Huggins, East Moline.
James A. Blakemore, Glenwood.
Walter E. Grauel, Mascoutah.
Kenneth W. Willman, Metamora.
Lester E. Brown, New Lenox.
John R. Evans, South Beloit.

INDIANA

Glen D. Bray, Amo.
Joseph E. Fouts, Greens Fork.
Albert L. Pyke, Lafayette.
Armin F. Schramm, New Palestine.
Donald J. Mustard, Poland.
Robert L. Spencer, Thorntown.
Edwin T. Livengood, Union City.

IOWA

Hilbert O. Herron, Blairstown.
Agnes K. Nielsen, Kimballton.
Dick Steenhoek, Newton.
Charles I. White, Oakland.
Evelyn A. Tish, Searsboro.

KANSAS

Lincoln T. Gribben, Havana.

LOUISIANA

Benjamin J. Haygood, Jr., Belcher.
Floyd E. Bennett, Livingston.
David J. Bondy, New Roads.

MAINE

Snowdell M. Holden, Jackman.
Homer C. Woodward, Newport.
Raymond P. Salls, York Beach.

MARYLAND

Leon W. Tyler, Fishing Creek.
Virginia F. Mishou, Lusby.
Wilma G. Raley, Ridge.
Francis Marion Rawlings, Rising Sun.

MASSACHUSETTS

Jessie M. Andrews, Monponsett.

MINNESOTA

Arnold E. Weflen, Clara City.
Cecil R. Campbell, Ellendale.
Bernard R. Anderson, Kerkhoven.
Donald O. Nelson, Tyler.
Donald T. Johnson, Waseca.

MISSISSIPPI

James D. Mills, Jr., Carthage.
Thomas A. Elder, Coldwater.
William Yerger Guilbert, Collins.
Dewey D. Patterson, Tupelo.

MISSOURI

Raymond M. Buckley, Warsaw.

NEBRASKA

Lee Curry, Ponca.

NEVADA

Gretta J. Schenck, Indian Springs.

NEW HAMPSHIRE

Francis H. Malony, Gilsum.

NEW JERSEY

Sherwood A. MacPherson, Bridgeton.
Vernon A. Statesir, Freehold.
Nicholas J. Caruso, Hoboken.

NORTH CAROLINA

Numa D. Redmon, Jr., Leaksville.

OHIO

Howard L. Bricker, Galena.
Fred J. Jurisch, Phalanx Station.

OREGON

John Prentiss, Nehalem.

PENNSYLVANIA

James P. Burgoon, Ashville.
Victor Wolinski, Everson.
John P. Oberholtzer, Mohrsville.
Kermit E. Thomas, Osceola Mills.
Reese Williams, Reynoldsville.
Ludwig A. Drobnick, St. Michael.
Nelly M. Nilsson, Skippack.
Viola E. Fulmer, Smicksburg.

PUERTO RICO

Junot Franco-Soto, Sabana Grande.

RHODE ISLAND

Amelia M. Bottomley, Greystone.
Earle W. Belknap, Wakefield.

SOUTH CAROLINA

W. Loring Lee, Jr., Sumter.
Spencer R. Elliott, Winnsboro.

SOUTH DAKOTA

Lyle Elward, Deadwood.
Donald L. Floyd, Kennebec.
John H. Hallberg, Stockholm.

TENNESSEE

James O. Buttram, Athens.
James F. Darnell, Dukedom.
James H. Ross, Englewood.
Ollie L. Davis, Gates.
James C. Pendergrass, Hixson.
Edmund E. Ward, Huntingdon.
Lela Crawley Scroggins, Lupton City.
Albert M. Houston, Woodbury.

TEXAS

Rabon O. Dews, Arlington.
Berniece C. Weatherford, Camden.
William J. Foxworth, Cisco.
Crook T. Waller, Eldorado.
Irving M. Horton, Humble.
Raymond E. Jones, Livingston.
Andrew W. Valentine, Presidio.

UTAH

Laurie D. Holley, Bryce Canyon.
Gwendelyn F. Gottfredson, Circleville.

VERMONT

William C. Nawrath, Manchester Center.
Henry W. Handfield, Poultney.
Gaylord C. Gale, Stowe.

VIRGINIA

Lawrence R. Kipps, Bealeton.
Willis E. Crews, Clover.

James W. Bell, Nassawadox.
Lucinda S. Sims, Ruckersville.

WASHINGTON

Alva Nadine Duvall, Hunters.
Maebelle C. Torres, Quinault.
Charles C. Hedrick, Retsil.

WEST VIRGINIA

Eleanor Hess Lavencheck, Carolina.
Helen E. Eagan, Nellis.
Virginia T. Bailey, Page.

WISCONSIN

Donald A. Denison, Soldiers Grove.
Darnell W. Kadolph, Weyauwega.

HOUSE OF REPRESENTATIVES

THURSDAY, MAY 26, 1955

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D. D., offered the following prayer:

Almighty and ever-blessed God, as we humbly and reverently engage in this sacred act of worship, wilt Thou answer our highest aspirations with Thy divine inspiration.

Grant that daily we may grow in the grace and knowledge of our Lord and Saviour, Jesus Christ, whom to know is life eternal.

May we never take a neutral or negative attitude toward life's lofty moral and spiritual principles, but show us how we may live affirmatively and helpfully, faithfully, and hopefully.

Help us to hasten that glorious day when the forces of evil shall be transformed into forces of light and peace and all for the glory of God and the good of humanity.

Hear us in the name of our blessed Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Miller, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On May 23, 1955:

H. R. 872. An act for the relief of Mrs. Concetta Saccatti Salliani;

H. R. 888. An act for the relief of Mrs. Elsa Danes;

H. R. 911. An act for the relief of Gloria Minoza Medellin;

H. R. 913. An act for the relief of Hildegard Noble;

H. R. 976. An act for the relief of Mrs. Franciska Mihalka;

H. R. 1008. An act for the relief of Alexander Turchaninova;

H. R. 1020. An act for the relief of Boris Ivanovitch Oblesow;

H. R. 1048. An act for the relief of Christine Susan Caiado;

H. R. 1166. An act for the relief of Florence Meister;

H. R. 1192. An act for the relief of Angelita Haberer;

H. R. 1196. An act for the relief of Li Chiu Fu and wife, Leung Sue Wa;

H. R. 1203. An act for the relief of Ivan Bruno Lomm, also known as Ivan B. Johnson;

H. R. 1220. An act for the relief of Kleoniki Argendeli;

H. R. 1346. An act for the relief of Mrs. Anatoly Batenko and Vladimir Batenko;

H. R. 1573. An act to repeal section 348 of the Agricultural Adjustment Act of 1938;

H. R. 1665. An act for the relief of David Manuel Porter;

H. R. 1679. An act for the relief of Marek S. Korowicz;

H. R. 1831. An act to amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods from claims of the Commodity Credit Corporation;

H. R. 1885. An act for the relief of Orlando Lucarini;

H. R. 1906. An act for the relief of Fay Jeanette Lee;

H. R. 2261. An act for the relief of Giuseppe Carollo;

H. R. 2276. An act for the relief of Vida Kosnik;

H. R. 2279. An act for the relief of Sister Mary Berarda;

H. R. 2289. An act for the relief of Mrs. Marjorie Fliger (nee Sproul);

H. R. 2348. An act for the relief of Theodora Sammartino;

H. R. 2354. An act for the relief of Basil Theodossiou;

H. R. 2361. An act for the relief of Elizabeth Ann Giampietro;

H. R. 2581. An act to promote the national defense by authorizing the construction of aeronautical research facilities by the National Advisory Committee for Aeronautics necessary to the effective prosecution of aeronautical research;

H. R. 2762. An act for the relief of Bent Petersen;

H. R. 2764. An act for the relief of Victor and Irene-Wanda Goldstein;

H. R. 4043. An act for the relief of Rene Rachell Luyse Kubicek; and

H. R. 5239. An act making appropriations for the Department of Agriculture and Farm Credit Administration for the fiscal year ending June 30, 1956, and for other purposes.

On May 25, 1955:

H. R. 876. An act for the relief of Alberto Dal Bello and Mrs. Dina Bristot Dal Bello;

H. R. 881. An act for the relief of Gabriella Sardo;

H. R. 886. An act for the relief of Mrs. Mounira E. Medlej;

H. R. 890. An act for the relief of Eliseo Felix Hernandez;

H. R. 921. An act for the relief of Chia-Tseng Chen;

H. R. 924. An act for the relief of Joseph Marrali;

H. R. 971. An act for the relief of Mrs. Erato Aranopoulou;

H. R. 1009. An act for the relief of William Ligh;

H. R. 1130. An act for the relief of Mrs Anita Scavone;

H. R. 1177. An act for the relief of Zbigniew Wolynski;

H. R. 1351. An act for the relief of Mrs. Lottie Longo (formerly Lottie Guetler);

H. R. 1490. An act for the relief of Stylianos Haralambidis;

H. R. 1501. An act for the relief of Andrea Hernandes Montes Rocha;

H. R. 1502. An act for the relief of Elisabeth Thalhammer and her child, Harold William Bushman III;

H. R. 1511. An act for the relief of Robert George Bulldeath and Lenora Patricia Bulldeath;

H. R. 1638. An act for the relief of Janis Arvids Reinfelds;

H. R. 1645. An act for the relief of Regina Berg Vomberg and her children, Wilma and Helga Vomberg;

H. R. 1957. An act for the relief of Namiko Nitoh and her child, George F. X. Nitoh;

H. R. 2087. An act for the relief of Erika Rambauske;

H. R. 2731. An act for the relief of Sing Fong York;

H. R. 2941. An act for the relief of Mrs. Elfriede Majka Grifasi; and

H. R. 2954. An act for the relief of Mrs. Irene Emma Anderson.

On May 26, 1955:

H. R. 923. An act for the relief of Dr. Danuta Oktawiec;

H. R. 958. An act for the relief of Howard Carl Kaiser;

H. R. 984. An act for the relief of Dr. Lycourgos E. Papadakis; and

H. R. 2346. An act for the relief of John P. Farrar.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Carrell, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1048. An act to amend and supplement the Federal-Aid Road Act approved July 11, 1916 (39 Stat. 355), as amended and supplemented, to authorize appropriations for continuing to construction of highways, and for other purposes.

THE LATE HONORABLE CHARLES ANDREW JONAS

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. JONES of North Carolina. Mr. Speaker, it becomes my sad duty to announce to the House the death of the Honorable Charles Andrew Jonas, of Lincolnton, N. C., a former Member of the House of Representatives, and the father of a present Member of the House, Hon. CHARLES RAPER JONAS. Mr. Jonas passed away late yesterday afternoon and his funeral services will be held in the First Methodist Church at Lincolnton, N. C., at 2 p. m. on Friday, May 27.

Mr. Jonas was born on a farm near Lincolnton, Lincoln County, N. C., on August 14, 1876. He was educated in the public schools of Lincoln County and attended Ridge Academy, Henry, N. C., and the Fallston Institute at Fallston, N. C. He graduated with honor from the University of North Carolina in June 1902, and thereafter entered the teaching profession for a period of 4 years. During the 4 years of his teaching experience, he studied law, spending the summers at the University Law School, and was admitted to the bar in 1906 and commenced the practice of law in Lincolnton, N. C.

He was elected and served in the North Carolina House of Representatives for 4 terms and was elected to represent his senatorial district in the North Carolina State Senate for 2 terms. The people of the old Ninth Congressional District of the State of North Carolina honored Mr. Jonas by electing him to the 71st Congress and he served here in this body from March 4, 1929, to March 3, 1931.

Without a doubt, Mr. Jonas played a very active role in the making of the